













THE OPEN DOOR DOCTRINE  
IN RELATION TO CHINA



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# THE OPEN DOOR DOCTRINE

IN RELATION TO CHINA

BY

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AUTHOR OF "THE FOREIGN RELATIONS OF CHINA"

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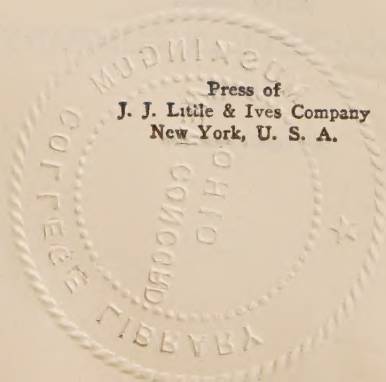


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DEDICATED  
TO  
INTERNATIONAL PEACE  
AND  
BROTHERHOOD





This study in American history was written for the non-competitive program of the Knights of Columbus to encourage investigation into the origins, the achievements and the problems of the United States; to interpret and perpetuate the American principles of liberty, popular sovereignty and government by consent; to promote American solidarity; and to exalt the American ideal.



## PREFACE

THE Open Door Doctrine, as is well known, has become a cardinal principle of American diplomacy. Just as the Monroe Doctrine governs American diplomacy in relations with Latin America, so the Open Door Doctrine guides American diplomacy in the Orient, particularly with respect to China. In fact, American foreign relations with China may be said to be conducted in terms of the Open Door Doctrine. Hence, a correct understanding of this policy is of vital importance.

The author has searched diligently for studies on this subject, but he has found few writings that gave a satisfactory presentation. While there are fragmentary essays, he has been impressed with the lack of a comprehensive work relating to the Doctrine. It is, therefore, hoped that this work may fill this need.

Particular endeavors have been made to obtain the highest and the most authoritative sources of information and materials. Adopting this attitude, while consulting works of secondary character, a number of which appear in footnotes or references, he has made special efforts to draw materials mainly from the publications of the United States Government and from the British Foreign Office, such as the Foreign Relations of the United States and the State Papers of



Great Britain. He has based his work mainly on these authorities; and has ventured to write these chapters from the original sources, except in some instances where he has drawn on his former work *The Foreign Relations of China*, and for the sake of consistency similar expression has been employed.

This study treats of the origin, history, meaning and application of the Open Door Doctrine. The work is concluded by an appendix comprising all the important documents relating to the Doctrine.

The author wishes to express his gratitude and indebtedness to the Knights of Columbus Historical Commission for the kind suggestion that he undertake this work, and particularly to Dr. Edward F. McSweeney, Chairman, for various courtesies, and to Miss Gertrude M. Carey, Executive Secretary, for assistance in the several stages of the work in connection with the publication of the book.

MINGCHIEN JOSHUA BAU.

Washington, D. C.

## INTRODUCTION

The Open Door Doctrine is a commercial and political principle which, like the Monroe Doctrine, has become an international law. Because it still remains a principle as well as a law, no declaration or legal definition is likely ever fully to contain its meaning.

The phrase itself is so expressive and appears to be so definite as to have been from the outset misleading. The Open Door Doctrine never connoted what the phrase itself, disassociated from the political facts to which it had relation, would appear to have meant. It will, therefore, be helpful to the reader to approach Dr. Bau's scholarly analysis through a vestibule which will exhibit the historical relations of the doctrine and the various transformations through which it has passed in the course of its long history.

If by the "Open Door" one means an absolutely free and unrestricted trade in which everyone goes and comes at pleasure, then it ought to be noted that in the regions to which the doctrine has been applied such a door never existed. Only in some of the islands of the Pacific and in other regions of the earth inhabited by disorganized and more or less uncivilized tribes, and then only for the briefest of periods in the last century, did such a trade exist. Wherever organized

government appeared, native or alien, there stood its representatives, jealous of sovereign rights and insistent upon trade regulations, tonnage dues, or customs, and these men became the doorkeepers. In the Far East, such doorkeepers have always been present and their rights have always been recognized. Even as late as 1858 there were only five ports in China, only two or three in Japan and none in Korea, at which Western merchants were allowed to trade under any conditions whatever. While it was always the purpose of the merchants and their governments as rapidly as possible to open new doors to trade and to reduce the trade restrictions to the minimum, the Open Door Doctrine does not refer to this commercial policy.

The doctrine of most-favored-nation treatment is the parent of the Open Door. The sovereignty of the Asiatic states was uniformly recognized by the earliest foreign traders and in the nineteenth century it was always accepted that the trade in the open ports of Eastern Asia was subject to such restrictions as an enlightened sovereign had a right to impose, and that the trade ought to bear, by payment of dues and duties, some share of the expenses of the government which maintained order and created the political conditions favorable to commercial intercourse. On the other hand, the commercial policy of each trading nation was governed by the fear that its merchants might meet with some discrimination which their competitors escaped. The demand for most-favored-nation treatment, therefore, was paramount. This demand is seen to be, in principle, the demand for the Open Door, al-



though the phrase itself did not appear until 1898 in England and in the United States not until a year later.

The most-favored-nation clause is a characteristically American doctrine. It appeared in the first commercial treaty ever negotiated by the United States and all subsequent commercial treaties retained it. It was the most fundamental American commercial policy. As late as 1815 Thomas Jefferson wrote that in his judgment commercial treaties need contain no other stipulation. It was therefore not an accident that the most-favored-nation clause appeared in the first treaties between the United States and Eastern nations in 1833. There was no other purpose in the treaties negotiated by Edmund Roberts with Siam and Muscat than to obtain an open door, that is, equality of commercial privilege for American citizens. The Roberts treaties did, however, mark a departure from traditional American policy in that they were unilateral and unconditional. In these compacts the demand for most-favored-nation treatment took the broad and unconditional form of stipulation that under any and all conditions American merchants must receive every privilege granted to the merchants of any nation. These treaties, antedating by nine years the first treaty with China, were fairly representative of the prevailing spirit of the age. They were the corner-stone of American commercial policy in Eastern Asia. The Americans would accept no discrimination which restricted perfect freedom of competitive trade. Already, for at least a generation, at old Canton, the only

open port with the exception of Manila east of Batavia, the doctrine had been in practice and was recognized and accepted by everyone.

Originally the most-favored-nation doctrine had been a purely commercial policy. However, trade and politics have never been actually confined to the watertight, non-communicating compartments to which they have been assigned by theorists, and it soon developed in the Far East that the most-favored-nation doctrine, and likewise the Open Door, had political connotations. When England engaged China in war in 1839, the intention may have been non-political and may have comprised only the determination to force open a little wider the door of commercial intercourse, but it is notable that the war was concluded in a treaty three years later which was by no means purely commercial. The treaty of Nanking (1842) stipulated the cession of Hongkong to Great Britain and there were other provisions in this treaty as well as in the treaty and trade regulations of the following year which were of more or less political import. That is to say, the British Government adopted in 1842 and 1843 certain political measures to make doubly sure that the Open Door for British trade could not be closed. This action immediately transformed the most-favored-nation policy into a political as well as a commercial doctrine not merely for the British but also for their competitors. It is of the utmost importance to recognize this, the more so because the fact was usually ignored by the American Government, though not by others, and never found its way into general recognition by treaties and

agreements until after the World War. There has never been a time since 1842 when the Open Door Doctrine was not, potentially at least, a political as well as a commercial principle. Equality of commercial privilege came to be more and more dependent upon equality of political privilege.

A contemporaneous contribution to the doctrine came from the Chinese who appear clearly to have recognized the political aspects of the doctrine. It is especially fitting that Dr. Bau should be the first to give us an exhaustive analysis of the Open Door Doctrine, for the doctrine itself appears to have been recognized and appropriated by China even before it appeared as a treaty stipulation. It had been the uniform practice of the Imperial Government at old Canton to treat all nations alike. When Sir Henry Pottinger presented his demands at Nanking, the Chinese commissioners appear to have fully considered the relation of those demands to the prospective demands of other nations for equality of privilege and to have concluded that it would be advantageous to China to allow no discrimination between nations and to admit other nationals to all the advantages which they were willing to concede to the British. Elsewhere the present writer has discussed the reasons for believing that this decision of the Chinese was made freely and not as the result of the representations of Sir Henry Pottinger. The Open Door with equality of privilege was a better bulwark to the tottering Chinese Government than a door open to one nation and closed to another. With commercial equality among the traders of all nations China would

find some protection for itself behind the conflicting pretensions of the Western nations. The Chinese text of the treaty of Nanking would appear to indicate that the elementary principle of the Open Door in China was first defined not by Sir Henry Pottinger, not by Secretary of State Hay, but by the Chinese commissioners in August, 1842.

Immediately following the signing of the treaty of Nanking, Commodore Lawrence Kearny of the American Navy, who happened to be cruising in the China seas at the time, demanded and received the assurance that Americans would be placed on the footing of the most favored nation. Caleb Cushing, however, who two years later negotiated the first treaty between the United States and China, did not demand the complete fulfillment of the promise. He did not demand a territorial equivalent for Hongkong by which alone he could have made sure of actual most-favored-nation treatment for his fellow citizens. Indeed, he was specifically instructed not to ask for a territorial base, and he contented himself with elaborating the doctrine of extra-territoriality, which had been granted in principle to the British the preceding year, and with securing certain minor advantages which he hoped would result in giving to American merchants commercial privileges equal to, though not identical with, those already secured by the British. In other words, Cushing, pursuant to his instructions from Secretary of State Webster, chose to ignore the fact that the Open Door Doctrine was prospectively dependent upon equality of political privilege.

This early Open Door Doctrine of commercial equality reached its maximum of theoretical development in 1858 when the treaties with China were revised and the first commercial treaties were made with Japan. In that year all the foreigners trading with the Far East were on an equal footing and the geographical area to which the doctrine was or might be applicable was at its maximum. Immediately thereafter the doctrine was subjected to a series of shrinkages, theoretical, actual, or geographical, so that, as incorporated in the treaties of 1922, it bears only a resemblance to the principle which was accepted by all, with the possible exception of Russia, in 1858. The territories of China are now much contracted, for the Russians, the French, and the Japanese have acquired title to regions in the North, South, and East, which were then prospectively subject to the Open Door Doctrine. Japan has recovered the sovereign rights which had been surrendered in her earlier treaties and has emancipated herself from their unilateral and non-reciprocal provisions. Meanwhile Japan has expanded, adding to her empire the Liu Chius, the Bonins, the Pescadores, Formosa, Korea and part of Sakhalen, and in time all of these areas have been subtracted from the territories to which the Open Door Doctrine was applicable. Likewise there has been a contraction of the actual, though perhaps not of the theoretical, sovereign right of China to offer equality of commercial privilege to any merchant who comes along, in vast areas throughout the republic. Exclusive water-front privileges have been granted in open ports, strategic harbors have been leased, mineral resources



have been preëmpted and ear-marked, lines of communication have been monopolized in such a way as to embarrass perfectly free trade, a system of foreign advisory supervision has been introduced which every year has threatened free competition more and more. Exclusive and arbitrary banking privileges have appeared in connection with loans, and a general atmosphere of restriction and repression has been created which has had the effect of closing the door to many commercial privileges which are still theoretically open. China is in the position of an impoverished man who has mortgaged his property at needlessly severe terms. It is beside the point to argue that the mortgages are perfectly legal, for whether they are or not the fact remains that China is no longer free to grant as open a door as formerly.

It may be helpful for the American citizen, in seeking to comprehend the Far Eastern problem as it exists to-day, to view the Washington Conference of 1921-2 as an effort to recover, as far as possible, the open doors in Eastern Asia which have been closed in the course of the last forty years. At this conference it was quickly discovered that water once over the dam cannot be made to return and at best the prospective open door in 1923 is very much less than the prospective open door in 1858. Let this be remembered by the American citizen when domestic issues again roll in upon him and threaten to obscure the importance of foreign relations. The intermittent playing of international politics is never successful. Constancy even more than consistency is important in foreign policy.

The United States cannot now recover the potential place in the Far East which it lost long ago through inattention, and it can still easily lose even more in the same way if the inattention is repeated.

The Open Door Doctrine, as Dr. Bau shows, received its first full legal definition in the treaties of Washington in 1922. However, definition implies exclusion as well as inclusion. It was soon discovered that Mr. Hay's definition in 1899 was wholly inadequate because of what it excluded and his effort to restate the doctrine in 1900 was only a little more successful. The Taft Administration attempted to restore to the doctrine a most important element which Mr. Hay for some unexplained reason had omitted, namely, that the Open Door involved equality of opportunity for loans and investments as well as for the exchange of commodities. On the other hand, Secretary of State Knox failed to see that the doctrine was political as well as commercial. At the beginning of the following administration, Mr. Wilson sacrificed much that had been gained by his predecessors by failing to recognize that the Open Door Doctrine is essentially a coöperative one which will not work unless the United States is prepared to coöperate with the other interested powers. Irreparable damage was done to commercial equality in China by the withdrawal of the American group from the Six-Power Loan, and it was only when the same administration happily reversed itself a few years later and made a place for American bankers in the new Consortium that a beginning was made toward the

recovery of so much of the Open Door as might still be regained.

Notwithstanding the fact that the doctrine has now received what appears to be a definitive legal definition in the new treaties, it is well to point out that not all of its essential elements appear clearly in the texts of those treaties. There are at least three important implications of the doctrine as now defined which every thoughtful American citizen ought fully to understand.

First, the Chinese themselves, who are the parties with the greatest interest in the maintenance of the Open Door Doctrine, regard the presence of the United States in these international engagements not merely as a guarantee that justice will be done but also as a special protection to the Chinese Republic. Dr. Bau clearly shows the fatality to Chinese as well as to American interests which followed the retirement of the American group from the Six-Power Loan in 1912. It is very important that the American people fully understand this fact, the more so because Mr. Wilson's action in causing the withdrawal of the American bankers bore the appearance of a friendly act towards China and was widely greeted as an exhibition of American Far Eastern policy at its best. A full examination of the results which followed now reveals this action to have been petulant and naïve. Its actual result was again to open the floodgates for still further disaster to China and to the Open Door Doctrine. In the next few years still more of China was withdrawn from the field of free commercial opportunity. By withdrawal from coöperation the United States immediately re-

moved itself from the only position where it could have exercised effective influence for the correction of the evils complained of.

Second, it must be fully understood that the Open Door Doctrine has now become in the most complete way an international rather than a national doctrine. The ratification of the Nine-Power treaty brought to the American Government an international legal and moral obligation as perfect as would have been involved in membership in the League of Nations even though the area of operation is more restricted. The United States has assumed a legal obligation not merely to China but also to all the other powers signatory to the treaty to *coöperate*. It has, moreover, because of the approval given to the Consortium by the executive branch of the government, assumed a much wider *moral* obligation, as the following pages reveal, and this obligation has been tacitly accepted by Congress in that the executive action has been permitted to pass unchallenged. The Consortium has in it a very great element of hope and encouragement, but it also provides for eventualities. So long as China is able to manage her own affairs without default in her international obligations, well and good. But the Consortium is obviously designed as a method by which, in case of necessity, international intervention in one form or another may be accomplished with a minimum of international disturbance. Looming up in the background, even, is the contingency of an international receivership such as all friends of China as well as the Chinese themselves devoutly hope may never be neces-

sary. In any event, whether intervention or receivership, if either becomes necessary, the United States is under the most solemn obligations to assume a joint responsibility. In fact, because of its geographical position, its financial resources and its traditional policy in the Far East, the United States holds and will continue to hold the balance of power and will therefore be cast for the leading rôle in whatever measures may be taken.

This fact brings us to the third point to which we have already alluded in our brief historical survey, namely, that the Open Door Doctrine has now become more than ever a question which concerns the entire nation. If the problem were purely commercial, a device for securing access to surplus markets, then the vast majority of American citizens who have no surplus produce which can be disposed of to advantage in China might feel themselves released from obligation to study the Open Door Doctrine. Superficially, the doctrine still bears the appearance of a bankers' and exporters' proposition, but actually it is far more than that, concerning itself not merely with justice to a quarter of the population of the globe but also with the peace of the entire world. No citizen can escape the obligation to be informed upon this subject. There are no diplomatic problems of the American Government which can be solved sectionally or by separate commercial or industrial groups. The Open Door Doctrine, quite as much as the Monroe Doctrine, belongs to the American people. That this is as yet fully realized in the United States does not appear.



Nor is it evident that the American people are at all prepared to meet the problems which are plainly in prospect.

Specifically the discharge of the obligations thus assumed implies a knowledge of the international relationships of the associated powers, particularly Japan and Great Britain, and more especially it calls for a willingness to conciliate and coöperate rather than a disposition to insult and antagonize. Furthermore, it calls for a firm policy on the part of the American Government such as is never possible except when the American people are alert to the issues and intelligently support the Executive. It required more than seventy years to place the Monroe Doctrine above the point where it was subject to challenge either by partisan interests within the United States or by transatlantic powers. It may require an even longer time to establish the Open Door policy as an axiom of international relations.

For these reasons it is an encouraging sign when such a study as Dr. Bau's finds sponsors, disinterested except as American citizens, who are willing to provide a medium for placing it before the American people. American diplomatic literature is not rich in impartial, exact and scientific treatments of the Far Eastern question. Such a contribution as this is, therefore, particularly valuable and timely.

Good citizenship and philanthropy alike demand for the following pages a wide circle of readers.

TYLER DENNETT





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THE OPEN DOOR DOCTRINE  
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# THE OPEN DOOR DOCTRINE IN RELATION TO CHINA

## CHAPTER I

### THE ORIGIN OF THE DOCTRINE

IN tracing the origin of the Open Door Doctrine, one is impressed by the fact that the principles of the doctrine are not new but old. As is well known, the principles are the equal opportunity of trade and the integrity of China. That is, the United States maintains that she or her nationals should have equal opportunity of trade in the markets of China, and that the integrity of China be respected.

Regarding the first principle—the equal opportunity of trade,—as early as the Opium War between Great Britain and China (1840-1842), before the United States had entered into treaty relations with China, Commodore Kearny of the United States, commanding the American Naval Squadron in the adjacent waters of Canton, demanded and obtained the assurance from the Chinese Commissioners that whatever trade concessions were to be made to the British would be ex-

tended to the Americans as well.<sup>1</sup> In the instruction given to Caleb Cushing, as he was commissioned Envoy Extraordinary and Minister Plenipotentiary of the United States to China, Daniel Webster, then Secretary of State, specifically and emphatically stated:

"Finally, you will signify, in decided terms and a positive manner, that the Government of the United States would find it impossible to remain in terms of friendship and regard with the Emperor, if greater privileges or commercial facilities should be allowed to the subjects of any other Government than should be granted to citizens of the United States." <sup>2</sup>

Subsequently, when Caleb Cushing had concluded the Treaty of Peace, Amity and Commerce, at Wang Hiya, July 3, 1844, the assurance secured by Commodore Kearny and the instruction given by Daniel Webster were embodied in Article II, stipulating:

"Citizens of the United States . . . shall in no case be subject to other or higher duties than are or shall be required of the people of any nation whatever. . . . And if additional advantages or privileges, of whatever description, be conceded hereafter by China to any other nation, the United States, and the citizens thereof, shall be entitled thereupon to a complete, equal and impartial participation in the same." <sup>3</sup>

Commenting on the merits of the treaty, Caleb Cushing stated:

"Thus, whatever progress either Government makes in opening this vast empire to the influence of foreign commerce, is for the common good of each other and of all Christendom." <sup>4</sup>

<sup>1</sup> Willis Fletcher Johnson, *America's Foreign Relations*, Vol. I, p. 464.

<sup>2</sup> Instruction of Sec. Webster to Min. Cushing, May 3, 1843, *Sen. Docs.*, 28th Cong. 2d Sess., No. 138, p. 5.

<sup>3</sup> *Brit. and For. State Papers*, Vol. 32, p. 791.

<sup>4</sup> Min. Cushing to John Nelson, July 5, 1844, *Sen. Docs.*, 28th Cong. 2d Sess., No. 67, p. 80.

Again, in another dispatch, Caleb Cushing made the comment:

"Permit me further to remark, that whatever commercial advantages M. de Lagrenée may obtain for France will at the same moment become common to the United States and to England, there being a stipulation to that effect in the Treaty of Wang Hiya, as well as in the British supplementary treaty. Whatever additional concessions either English or French force may extort from China, none of them can be exclusive; and, in equal circumstances, the enterprise of our merchants and the skill and courage of our navigators may be safely trusted to the chances of all fair commercial competition in China."<sup>5</sup>

Likewise, Great Britain founded her commercial relations with China on the principle of equal opportunity of trade. In the Supplementary Treaty between Great Britain and China signed at Hoomun-Chae, on October 8, 1843, following the Treaty of Nanking, August 29, 1842, the principle was stipulated (Art. VIII) in the following terms:

". . . Should the Emperor hereafter, from any cause whatever, be pleased to grant additional privileges or immunities to any of the subjects or citizens of such foreign countries, the same privileges and immunities will be extended to, and enjoyed by, British subjects. . . ."<sup>6</sup>

In communicating the Supplementary Treaty to the Parliament, Queen Victoria was reported to have said:

"Throughout the whole course of my negotiations with the government of China, I have uniformly disclaimed the wish for any exclusive advantages. It has been my desire that equal

<sup>5</sup> Min. Cushing to Sec. Calhoun, Aug. 16, 1844, *Ibid.*, p. 91.

<sup>6</sup> *Brit. and For. State Papers*, Vol. 31, p. 133.

favor should be shown to the industry and commercial enterprise of all nations."<sup>1</sup>

Thus it is manifest that ever since the dawn of the era of the treaty relations between the great maritime Powers and China, the principle of equal opportunity of trade has been made a part of the treaty stipulations, and has been the prevalent rule in relation to commerce and industry in China. The stipulations, as seen above, through which this principle was provided, constitute what is known in international law as the most favored nation clause. By this is meant that whatever privileges, favors or immunities, with respect to commerce and navigation, granted to a given state, shall be granted to others also. It places the states on a footing of equality, so far as the privileges, favors or immunities in matters regarding commerce and navigation are concerned. It is intended to prevent discrimination in commercial affairs, particularly in tariff, tonnage and transportation rates. Such being its import, it was stipulated in practically all the subsequent treaties of commerce with China, and was made the cornerstone of all commercial privileges in China. It can, therefore, be said that long before the enunciation of the Open Door principle, equal opportunity of trade as provided in the most favored nation clause had been an accepted and universal principle in commercial matters of China.

Respecting the second principle—the integrity of China—it is, like the principle of equal opportunity of trade, not new either, but old, having existed

<sup>1</sup> Moore, *International Law Digest*, Vol. 5, p. 418.

ever since the treaty relations of China with the Powers. On June 21, 1844, Caleb Cushing communicated to the Chinese Commissioner a project of a treaty, in which he stated that the United States did not desire any portion of the territory of China,<sup>8</sup> and on May 30, 1857, Secretary Cass, writing to William B. Reed, Commissioner to China, said:

"The whole nature and policy of our government must necessarily confine our action within these limits, and deprive us of all motives either for territorial aggrandizement or the acquisition of political power in that distant region."<sup>9</sup>

On July 28, 1868, when the so-called Burlingame Treaty, being additional articles to the Treaty of Commerce between the United States and China of June 18, 1858, was concluded, the integrity and sovereignty of China were specifically provided:

"It is further agreed that, if any right or interest in any tract of land in China has been or shall hereafter be granted by the Government of China to the United States or their citizens for purposes of trade or commerce, that grant shall in no event be construed to divest the Chinese authorities of their right of jurisdiction over persons and property within said tract of land, except so far as that right may have been expressly relinquished by Treaty."<sup>10</sup>

Commenting upon the Burlingame Treaty, Hamilton Fish, then Secretary of State, stated that the under-

<sup>8</sup> Moore, *International Law Digest*, Vol. 5, p. 419.

<sup>9</sup> *Ibid.*, p. 424; Sec. Cass to Com. Reed, May 30, 1857, *Sen. Ex. Docs.*, 36th Cong. 1st Sess., No. 30, p. 8.

<sup>10</sup> *Hertslet's China Treaties*, Vol. 1, No. 96, p. 555.



lying principle of that treaty was the territorial integrity and sovereignty of China.

"The great principle which underlies the articles of July 1868 is the recognition of the sovereign authority of the imperial government at Peking over the people of the Chinese empire and over their social, commercial, and political relations with the western powers. . . .

"While it confirms the interterritorial jurisdiction conferred by former treaties upon European and American functionaries over the persons and properties of their countrymen, it recognizes at the same time the territorial integrity of China, and prevents such a jurisdiction from being stretched beyond its original purpose."<sup>11</sup>

Apart from these official statements, the integrity of China or of any state is a recognized principle in international law. Even in absence of any treaty stipulation it is a fundamental principle governing the relations between states that each should respect the integrity of the other. That is to say, international law postulates that, even in absence of any treaty provisions, the sovereignty and integrity of a state within the limits of its confines should be respected. Viewing the principle from the standpoint of international law, then, it is as old as the law itself. Viewed, however, from the standpoint of treaty relations, it has been adopted as a fundamental policy of the United States since the very early days of the Sino-American relations.

Thus, it is evident that equal opportunity of trade and the integrity of China, constituent principles of

<sup>11</sup> Sec. Fish to Min. Bancroft, Aug. 31, 1869, *U. S. For. Rel.*, 1870, pp. 304, 305.

the Open Door Doctrine, are old and well known, having existed ever since the beginnings of the foreign relations of China. This being so, the question naturally arises: Why should there be such a doctrine as the Open Door? Why must equal opportunity of trade be demanded and maintained particularly in China? Why must the integrity of China be made a subject of international agreement rather than an accepted fundamental principle in international law?

The answer is this: There arose at the close of the nineteenth century a situation in China which threatened to overthrow the principles of equal opportunity of trade and the integrity of China, and the Open Door Doctrine was the measure applied to combat this condition.

Toward the close of the nineteenth century, China had just been deprived of no less than nine of her dependencies, which for years past had served as a cordon of protection for her security,—the Liuchiu Islands to Japan in 1881, the western parts of Ili to Russia in 1881, Tongking and Annam to France in 1885, Northern Burma to Great Britain in 1886, and Sikkim to the same country in 1890, and Korea, Formosa and the Pescadores to Japan in 1895.<sup>12</sup> Besides, her weakness was revealed to the world by the victory of Japan in the war of 1894-1895. Hitherto, although she had been defeated several times, she had suffered reverses only from Western Powers. In fact, in the Chino-French War of 1884-1885, her army stood their own ground well. The war with Japan, however,

<sup>12</sup> Bau, *Foreign Relations of China*, p. 18.

changed the opinion of the world. Japan was considered a second-rate Power in the Far East, and by one stroke, she had brought the giant to the ground. This ignominious defeat brought the Powers to the realization that China was even weaker than Japan and fast crumbling to pieces, and that they should lose no time in obtaining whatever they could of territory or concession or control.

Meanwhile, as a complementary development of the situation, the European Powers had consolidated their national unification, generally on the principle of nationality, and were on the eve of a gigantic expansion tending toward colonial development and commercial imperialism. Rivals among themselves in armament, trade, and colonial possessions, driven by the irresistible dynamic of the balance of power, the great maritime Powers of Europe found China endowed with immense natural resources and lying on the sea side, so to speak, as "a stranded whale, apparently dead, or dying,"<sup>13</sup> ready for seizure and partitionment. The rival Powers rushed for their share of spoils and concessions and China was subjected to the grind of the millstones of the European balance of power, thus bringing to pass the terrific scene of the general scramble for concessions in 1898.

As a first step, the competing Powers seized strategic bases in China, partly as a means to defend their own positions and possessions in the Far East and partly as a *point d'appui* for the exploitation of China. On

<sup>13</sup> Thayer, *Life of John Hay*, Vol. 2, p. 240.

the pretext of the murder of two German Catholic priests in Shantung, Germany seized Kiaochow in November, 1897, and acquired its lease for ninety-nine years by the Convention of March 6, 1898.<sup>14</sup> Russia seized Port Arthur and Talienwan in December, 1897, and demanded their lease. This was obtained by the Treaty of March 27, 1898,<sup>15</sup> for a period of twenty-five years. Following the example of Russia, France demanded and obtained in April, 1898, the lease of Kwangchowwan for ninety-nine years.<sup>16</sup> Great Britain secured the lease of Kowloon, opposite Hongkong,<sup>17</sup> on June 9, 1898, including Deep Bay and Mirs Bay, for a term of ninety-nine years, and the lease of Weihaiwei, on July 1, 1898, "for so long a period as Port Arthur shall remain in the occupation of Russia."<sup>18</sup> Italy attempted to secure a naval base and demanded the lease of Sanmen Bay in Chekiang, but the endeavor was frustrated by the transfer of authority in the Peking Court from the Emperor to the Empress Dowager, who made a determined resistance against further encroachment on the territory of China.

The menace of the leased territories to the integrity of China cannot be overestimated. Located as they were at strategic points, and depriving China of the best military and naval bases, they could not but

<sup>14</sup> Hertslet, Vol. 1, No. 59, pp. 350-354; Bau, *op. cit.*, chap. on Leased Territories.

<sup>15</sup> Hertslet, Vol. 1, No. 88, pp. 505-508.

<sup>16</sup> *Ibid.*, No. 55, pp. 329-331.

<sup>17</sup> *Ibid.*, No. 24, pp. 120-122.

<sup>18</sup> *Ibid.*, No. 25, p. 122.

weaken and hamper the national defense. Besides, in time of war between the lessee state and China, they would inevitably be used by the former as a base of action against the latter, thus threatening the strategic security of China. What is more, being points of fortification, it was inevitable that they would become objects of war wherein the lessee state should be a party, thus bringing war to the soil of China although she might not be a party thereto. This was evidenced by the capture of Port Arthur and Talienwan by Japan in the Russo-Japanese War, and of the seizure of Kiaochow in the World War by Japan with consequent entanglements and controversies.<sup>19</sup>

Having made the leased territories the bases of defense as well as *points d'appui* for the exploitation of China, the Powers, in order to exploit natural resources of China and to dominate the economic life of their respective regions, entered upon a general scramble for railway concessions, and projected strategic and commercial lines into their respective spheres. By the Convention of September 8, 1896,<sup>20</sup> Russia secured the right for the Trans-Siberian Railway to cross Northern Manchuria to Vladivostok, and subsequently, by the Convention for the lease of Port

<sup>19</sup> Subsequent changes relating to the leased territories are as follows: Kiaochow was captured by Japan in 1914 and its restoration to China was agreed upon at the Washington Conference, 1921-1922. Great Britain announced her readiness to restore Weihaiwei at the Washington Conference upon the settlement of the Shantung Question. France also declared her willingness to enter into negotiations with China for the restitution of Kwangchowwan under special conditions. For a lengthy treatment and discussion of the subject, see Bau, *Foreign Relations of China*, chap. on Leased Territories and also Part I.

<sup>20</sup> MacMurray, *Treaties and Agreements with and concerning China*, No. 1896/ 5.



Arthur and Talienwan, the right to construct a line connecting a point in the Trans-Northern Manchurian line (Harbin) to a point in the Liaotung Peninsula.<sup>21</sup> By the Treaty of June 20, 1895,<sup>22</sup> France obtained the right to extend her Annam Railway into Chinese territory, subsequently confirmed by an exchange of notes in April, 1898. Likewise, by the Convention of March 6, 1898, Germany procured the right to construct two railways in Shantung.<sup>23</sup> On February 4, 1897, Great Britain obtained the right to connect the Burmese Railway with the future Yunnan Railway.<sup>24</sup>

Subsequently, Germany constructed the Tsingtao-Tsinan Railway, which was seized by Japan in 1914, the restoration of which to China was provided in the Shantung Settlement at the Washington Conference. Russia built the Chinese Eastern Railway, the southern portion of which from Changchun to Dalny and Port Arthur was transferred to Japan in consequence of the Russo-Japanese War of 1904-1905. France constructed the Tongking-Yunnanfu Line.

Following the grant of these strategic lines came the international scramble for other railway concessions. The crucial struggle was over the premier concession of the Peking-Hankow Line, connecting the capital of China with the heart of the Yangtze Valley. Great Britain, the United States, and Belgium (supported by France and Russia) all contested for the

<sup>21</sup> Agreement between China and Russia, March 27, 1898, Art. 8, *Hertslet*, Vol. 1, No. 88, p. 507.

<sup>22</sup> *Ibid.*, No. 53, pp. 323-327.

<sup>23</sup> *Ibid.*, No. 59, p. 353.

<sup>24</sup> *Ibid.*, No. 22, p. 117.



concession. Finally, Belgium underbid all the others and won the concession.<sup>25</sup>

Chagrined over the Belgian success, especially as the latter was supported by her rivals, Russia and France, Great Britain demanded a series of concessions in the Yangtze Valley. By vigorous demand and naval demonstration, she procured several railway concessions: the Peking-Newchwang,<sup>26</sup> the southern portion of the Tientsin-Pukow, the Shanghai-Nanking, the Pukow-Hsinyang, the Soochow-Hangchow-Ningpo, the Canton-Kowloon Railway,<sup>27</sup> and the right to extend the Burmese Railway as far as the Yangtze, securing in addition valuable mining rights in Shansi,<sup>28</sup> Honan,<sup>29</sup> Chekiang and Chili.<sup>30</sup> Likewise, the American China Development Company obtained the concession of the Hankow-Canton Railway with the proviso<sup>31</sup> that the rights granted should not be transferred to any other nationality than American. Later, however, as the American China Development Company permitted the shares of the line to fall into the hands of the Belgians, who began to obtain a controlling interest in the line and to assume the direction of the work, China demanded the cancellation of the concession. This was effected in 1905 by the payment of

<sup>25</sup> MacMurray, No. 1898/13.

<sup>26</sup> *Ibid.*, No. 1898/20.

<sup>27</sup> *Ibid.*, Nos. 1903/2, 1905/11, 1907/2.

<sup>28</sup> *Ibid.*, No. 1908/2.

<sup>29</sup> *Ibid.*, No. 1898/12.

<sup>30</sup> Sir C. MacDonald to Lord Charles Beresford, Nov. 23, 1898, Brit. For. Off., *China No. 1* (1899: *Parl. Papers*, Vol. 109), pp. 344-347.

<sup>31</sup> Rockhill, *Treaties and Conventions with or concerning China and Korea*, p. 273, Art. 17.

\$6,750,000 by the Chinese Government. Similarly, Russia procured the concession of the Chingting-Tai-yuan,<sup>32</sup> France obtained the Lungchow-Nanning and the Pakhoi-Nanning, and Germany secured the northern section of the Tientsin-Pukow Railway.<sup>33</sup>

Following the railway concessions, the Powers entered specific claims, expressly or tacitly, for the right of priority or first option in loans and concessions in their respective regions. For instance, in the Kiaochow Lease Convention, it was stipulated:

"If within the Province of Shantung any matters are undertaken for which foreign assistance, whether in personnel, or in capital, or in material, is invited, China agrees that the German merchants concerned shall first be asked whether they wish to undertake the works and provide the materials. In case the German merchants do not wish to undertake the said works and provide the materials, then as a matter of fairness China will be free to make such other arrangements as suits her convenience."<sup>34</sup>

Further, the Powers asserted their prior claims on their respective regions by means of the declaration of non-alienation. On the surface, these declarations were nothing more than mere utterances from the territorial sovereign that these respective regions or spheres should not be ceded or alienated in any form to any nation; but in reality, and in spirit, the Powers understood them to mean that, by receiving these pledges of non-alienation, they had a prior claim to

<sup>32</sup> MacMurray, No. 1902/8.

<sup>33</sup> MacDonald to Beresford, *op. cit.*

<sup>34</sup> *Shantung Question: Submitted by China to the Paris Peace Conference*, pub. by Chinese Nat. Wel. Soc., 3d ed., 1920, p. 50.

their respective regions or spheres, should any untoward event occur. Accordingly, France obtained the declaration of non-alienation of the Island of Hainan on March 15, 1897,<sup>35</sup> and later, on April 10, 1898, the declaration of non-alienation of the territory bordering on Tongking.<sup>36</sup> Likewise, on February 11, 1898, Great Britain procured the declaration of non-alienation of the Yangtze Valley:<sup>37</sup>

"The Yamên have to observe that the Yang-tsze region is of the greatest importance as concerning the whole position (or interests) of China, and it is out of the question that territory (in it) should be mortgaged, leased, or ceded to another power."<sup>38</sup>

On April 26, 1898, Japan received the declaration concerning the non-alienation of Fukien.<sup>39</sup>

Finally, in order to safeguard their respective regions of exploitation, the Powers concluded agreements with each other in which they pledged themselves to respect their respective spheres. On January 15, 1896, Great Britain and France agreed that they would make Yunnan and Szechuan their common sphere, rendering common to both Powers all privileges and advantages that China might grant to either of them.<sup>40</sup>

On September 2, 1898, the Bankers of Great Britain and Germany covenanted to define and respect

<sup>35</sup> MacMurray, No. 1897/2; *Doc. Dip., Chine*, 1894-1898, p. 33.

<sup>36</sup> *Ibid.*, No. 1898/6; *Doc. Dip., Chine*, 1894-1898, p. 49.

<sup>37</sup> *Ibid.*, No. 1898/1.

<sup>38</sup> Hertslet, Vol. 1, No. 23, p. 120.

<sup>39</sup> MacMurray, No. 1898/8.

<sup>40</sup> *Ibid.*, No. 1896/1, Art. 4.

their spheres of influence with respect to applications for railway concessions:

"1.—The British sphere of interest, viz.: The Yangtsze Valley subject to the connection of the Shantung lines to the Yangtsze at Chinkiang: the provinces south of the Yangtsze; the Province of Shansi with connection to the Peking-Hankow line at a point south of Chengting and a connecting line to the Yangtsze Valley, crossing the Hoangho Valley.

"2.—German sphere of interest, viz.: The Province of Shantung and the Hoangho Valley with connection to Tien-tsin and Chengting, or other points of the Peking-Hankow line, in the south with connection to the Yangtsze at Chinkiang or Nanking. The Hoangho Valley is understood to be subject to the connecting lines in Shansi forming part of the British sphere of interest, and to the connecting line to the Yangtsze Valley, also belonging to the said sphere of interest."<sup>41</sup>

On April 28, 1899, Great Britain and Russia engaged to define and respect each other's spheres. Russia was to have the region north of the Great Wall, and Great Britain that of the Yangtze Valley.

"1. Great Britain engages not to seek for her own account, or on behalf of British subjects or of others, any railway Concessions to the north of the Great Wall of China, and not to obstruct, directly or indirectly, applications for railway Concessions in that region supported by the Russian Government.

"2. Russia, on her part, engages not to seek for her own account, or on behalf of Russian subjects or of others, any railway Concessions in the basin of the Yang-tsze, and not to obstruct, directly or indirectly, applications for railway Concessions in that region supported by the British Government."<sup>42</sup>

<sup>41</sup> MacMurray, No. 1900/5, p. 267.

<sup>42</sup> Hertslet, Vol. 1, No. 104, pp. 586-587. Russia and Great Britain, on Aug. 31, 1907, again mutually pledged to abstain from any interference or extension of influence in Tibet.—*Ibid.*, No. 121, pp. 620-

Thus, it is seen that by these five means—the leased territory, railway concession, right of priority, declaration of non-alienation, and international agreement,—a new régime was brought into being in China, which is commonly called the sphere of influence or interest. As claimed by the Powers in China, the spheres of influence were nothing more than spheres wherein the dominant Powers maintained priority in economic exploitation and opposed the inroads of other foreign influences. They were portions of territory earmarked for future possession in case of a break-up of China, “wherein a nation has expressly or impliedly declared that it will permit no other nation to exert political influence, and that itself will lead in the exploitation of natural resources.”<sup>43</sup>

This régime of the spheres of influence or interest threatened to nullify the principles of equal opportunity of trade and integrity of China. The Powers dominating the regions generally possessed preferential or exclusive rights, which precluded the possibility of competition on an equal basis. They entrenched themselves in their spheres of interest, gathering into their hands basic industries and means of communication, becoming the dominant economic powers in their spheres, thus frustrating the application of the principle of equal opportunity of trade. It was further apprehended that the Powers holding these spheres of influence or interest might practice discrimination in

622. But when Russia moved on Outer Mongolia in 1913 and 1915, Great Britain made a similar counter move in Tibet.—Bau, *Foreign Relations of China*, chap. on the Policy of Great Britain in China.

<sup>43</sup> Reinsch, *World Politics*, p. 114.



railway, tonnage and tariff charges, thus vitiating the principle of equal treatment in matters of commerce and navigation as provided in the most favored nation clause.

Furthermore, the régime of the spheres of influence or interest menaced the integrity of China and indirectly the peace of the world. It tended to build up in China rival economic kingdoms, competing with one another for supremacy and aggrandizement. In this way, it tended to bring to pass the disruption of the Chinese Empire, threatening to grind down her integrity and independence in the mills of their economic imperialism. Finally, it induced among the powers mutual antagonism and hatred, giving rise to international friction and eventually to war.

Alarmed at the situation, on March 1, 1898, the British House of Commons passed the following resolution declaring for the integrity and independence of China:

"That it is of vital importance for British commerce and influence that the Independence of Chinese Territory should be maintained." <sup>44</sup>

In the debate for the adoption of the aforesaid resolution, G. N. Curzon, then Under-Secretary for Foreign Affairs, declared:

"... the principles which have underlain the policy of the Government ... have been the same. ... The first is ... the maintenance of the integrity and the independence of China. The second is the preservation of our Treaty rights;

<sup>44</sup> *Parl. Debates*, 4th Ser., Vol. 54, pp. 309, 340.

. . . Sir, the third principle of our policy is that of free commerce. Our belief is that the integrity of China, which we are asked by this Motion to safeguard, is most likely to be secured by throwing open China to the interests and intercourse of the whole world, and not, so to speak, by closing her into separate water-tight compartments, each bearing a separate label or appellation of its own." <sup>45</sup>

Again, Sir W. V. Harcourt, on April 27, 1898, made the statement in Parliament that the British policy was to maintain equal opportunity of trade and the integrity of China:

" . . . I think I should be accurately stating the principles of the policy at which the Government aimed under the following heads—they were stated by several Ministers of authority, and notably by the right honourable Gentleman the Leader of the House, in the early part of the year. I should say that those principles were to oppose, for ourselves and for others, territorial occupation, which would necessarily lead to the dismemberment of the Chinese Empire; and, secondly, that there was to be the principle of the open door, by which freedom of access for the commerce of Great Britain, under the Treaty of Tien-tsin, and other nations should be maintained and preserved in China. Thirdly, there was to be no acknowledgment of claims to special spheres of influence for particular Governments and States, but equal rights should be claimed and exercised everywhere. . . ." <sup>46</sup>

Meanwhile, British traders in China were of one accord for the maintenance of equal opportunity of trade and the integrity of China. Traveling throughout China in the winter of 1898-1899 to investigate the condition of British trade, the security

<sup>45</sup> *Parl. Debates*, 4th Ser., Vol. 54, pp. 338-339.

<sup>46</sup> *Ibid.*, Vol. 56, p. 1560.



afforded to it, and the prospect of its development, Lord Charles Beresford found that the British merchants, who were then carrying on the major portion of the foreign trade of China, were unanimous for the Open Door Policy:

" . . . I cannot repeat too often the profound conviction held by every trader in China that the policy of the Open Door, or equal opportunity for the trade of all nations, is the one and only policy possible for the development of trade and commerce. . . . Neither is it any use keeping the door open without insuring that the room on the other side of the door is in order. To keep the door open the integrity of the Chinese Empire must be maintained."<sup>47</sup>

Subsequently, as he returned to Great Britain by way of the United States, in February, 1899, he preached enthusiastically in this country the necessity of maintaining the Open Door Doctrine in China.<sup>48</sup>

Anxious, however, as she might be to proclaim and maintain the Open Door Doctrine, Great Britain found that she herself was already stained with the spoliations of China and the establishment of a sphere of influence in the Yangtze Valley, and could not consistently preach a doctrine which she herself was not able to exemplify. She was compelled, therefore, to let the United States assume the honor of sponsoring the doctrine.

Such was the situation, when on September 30, 1898, John Hay was sworn into the office of the

<sup>47</sup> Beresford, *Break-up of China*, pp. 453-454.

<sup>48</sup> *Ibid.*, chap. on Japan and also chap. on the United States; Latané, *From Isolation to Leadership*, p. 87; Baron S. A. Korff, *Russia's Foreign Relations*, p. 62.

Secretary of State. Prior to this, he had been American Ambassador to London, where he had already heard whisperings of the popular clamor for the Open Door and had imbibed the prevalent apprehension of the break-up of China. Upon his assumption of the office of Secretary of State, he was confronted with the problem of choosing a course in regard to the Chinese situation. He could allow the United States to join in the scramble for concessions and spheres of influence. In this case, he would meet with the disapprobation of public sentiment at home and would depart radically from the traditional American policy of non-intervention and avoidance of foreign entanglements. He could refrain from taking any positive action, leaving the Chinese situation to its natural course of events. In this case, he would let the United States lose her share of the trade of China, thus failing to preserve the potential market of China for the future expansion of American commerce.<sup>49</sup>

His difficult problem and his attitude thereto were clearly revealed in a contemporary letter:

" . . . We are, of course, opposed to the dismemberment of that Empire, and we do not think that the public opinion of the United States would justify this Government in taking part in the great game of spoliation now going on. At the same time we are keenly alive to the importance of safeguarding our great commercial interests in that Empire and our representatives there have orders to watch closely everything that

<sup>49</sup> The percentage of the American trade in China at that time was only 8 per cent of the whole foreign trade of China.—Beresford, *Break-up of China*, p. 444.

may seem calculated to injure us, and to prevent it by energetic and timely representations.”<sup>50</sup>

Urged by a high sense of patriotic duty to preserve the equal opportunity for trade in the potential market of China, and realizing the tremendous significance of China in the world politics of the future, since, to quote his own words, “whoever understands that mighty empire—socially, politically, economically, religiously,—has the key to world politics for the next five centuries,”<sup>51</sup> he was constrained to take the only course open to him consistent with the traditional policy of the United States,—that is, to maintain equal opportunity for trade and to preserve the integrity of China.

Thus compelled to act, he dispatched his first circular note, on September 6, 1899, to London, Berlin and St. Petersburg, on November 13 to Tokio, on November 17 to Rome, and on November 21 to Paris. Though wording his notes with some slight differences to suit the various foreign offices, he set forth, essentially, the following proposal:

“Sir: The Government of Her Britannic Majesty has declared that its policy and its very traditions precluded it from using any privileges which might be granted it in China as a weapon for excluding commercial rivals, and that freedom of trade for Great Britain in that Empire meant freedom of trade for all the world alike. While conceding by formal agreements, first with Germany and then with Russia, the possession of ‘spheres of influence or interest’ in China in which they are to enjoy special rights and privileges, more

<sup>50</sup> Hay’s letter to Paul Dana, March 16, 1899, Thayer, *Life of John Hay*, Vol. 2, p. 241.

<sup>51</sup> Bashford, *China: an Interpretation*, pp. 17-18.

especially in respect of railroads and mining enterprises, Her Britannic Majesty's Government has therefore sought to maintain at the same time what is called the 'open-door' policy, to insure to the commerce of the world in China equality of treatment within said 'spheres' for commerce and navigation. This latter policy is alike urgently demanded by the British mercantile communities and by those of the United States, as it is justly held by them to be the only one which will improve existing conditions, enable them to maintain their positions in the markets of China, and extend their operations in the future. While the Government of the United States will in no way commit itself to a recognition of exclusive rights of any power within or control over any portion of the Chinese Empire under such agreements as have within the last year been made, it can not conceal its apprehension that under existing conditions there is a possibility, even a probability, of complications arising between the treaty powers which may imperil the rights insured to the United States under our treaties with China.

"This Government is animated by a sincere desire that the interests of our citizens may not be prejudiced through exclusive treatment by any of the controlling powers within their so-called 'spheres of interest' in China, and hopes also to retain there an open market for the commerce of the world, remove dangerous sources of international irritation, and hasten thereby united or concerted action of the powers at Peking in favor of the administrative reforms so urgently needed for strengthening the Imperial Government and maintaining the integrity of China in which the whole western world is alike concerned. It believes that such a result may be greatly assisted by a declaration by the various powers claiming 'spheres of interest' in China of their intentions as regards treatment of foreign trade therein. The present moment seems a particularly opportune one for informing Her Britannic Majesty's Government of the desire of the United States to see it make a formal declaration and to lend its support in obtaining similar declarations from the various powers claiming 'spheres of influence' in

China, to the effect that each in its respective spheres of interest or influence—

"First. Will in no wise interfere with any treaty port or any vested interest within any so-called 'sphere of interest' or leased territory it may have in China.

Second. That the Chinese treaty tariff of the time being shall apply to all merchandise landed or shipped to all such ports as are within said 'sphere of interest' (unless they be 'free ports'), no matter to what nationality it may belong, and that duties so leviable shall be collected by the Chinese Government.

"Third. That it will levy no higher harbor dues on vessels of another nationality frequenting any port in such 'sphere' than shall be levied on vessels of its own nationality, and no higher railroad charges over lines built, controlled, or operated within its 'sphere' on merchandise belonging to citizens or subjects of other nationalities transported through such 'sphere' than shall be levied on similar merchandise belonging to its own nationals transported over equal distances." <sup>52</sup>

To the above circular note of John Hay which was transmitted, *mutatis mutandis*, to the various foreign offices addressed, all the Powers concerned replied in favor, generally with the reservation that the other Powers should concur, with the exception of Russia, who was ominously silent on the uniformity of harbor dues and railroad charges.<sup>53</sup>

On March 20, 1900, having received all the replies, John Hay informed the Powers that

"the condition originally attached to its acceptance—that all other powers concerned should likewise accept the proposals

<sup>52</sup> Sec. Hay to Amb. Choate, Sept. 6, 1899, *U. S. For. Rel.*, 1899, pp. 131-133.

<sup>53</sup> Count. Mouravieff to Amb. Tower, Dec. 18/30, 1899, *Ibid.*, pp. 141-142.



of the United States—having been complied with, this Government will therefore consider the assent given to it by —— as final and definitive.”<sup>54</sup>

From a close scrutiny of the first circular of John Hay, it can be readily detected that the dominant motive for the enunciation of the Open Door Doctrine was to safeguard American commercial interests and opportunities in China from the perils of the practice of spheres of influence and leased territories by means of maintaining within these spheres or leased territories equal treatment in matters of tariff duties and transportation by railway or navigation. To this effect, John Hay said:

“We have kept always in view the fact that we are pre-eminently a peace-loving people, that our normal activities are in the direction of trade and commerce; that the vast development of our industries imperatively demands that we shall not only retain and confirm our hold on our present markets, but seek constantly, by all honorable means, to extend our commercial interests in every practical direction. . . . In the same spirit we have sought successfully to induce all the great Powers to unite in a recognition of the general principle of equality of commercial access and opportunity in the markets of the Orient. We believe that ‘a fair field and no favor’ is all we require, and with less than that we cannot be satisfied. If we accept the assurances we have received as honest and genuine, as I certainly do, that equality will not be denied us, and the result may safely be left to American genius and energy.”<sup>55</sup>

<sup>54</sup> *U. S. For. Rel.*, 1899, p. 142.

<sup>55</sup> Speech of John Hay, at the dinner of the New York Chamber of Commerce, Nov. 19, 1901, copy in Library of Congress, pp. 8-9; *New York Times*, Nov. 20, 1901.



Thus was given birth the Open Door Doctrine. In recapitulation, it has been observed that the principles thereof were as old as the foreign relations of China, and that the doctrine was formulated to meet a critical situation in China menacing alike to the reign of equal opportunity of trade and to the maintenance of the integrity of China. It can be further said that John Hay's service in the enunciation of the Open Door Doctrine lies, not in the origination of the principles, but rather in the concrete formulation and in sponsoring and championing of the doctrine and seizing the opportune moment to blazon to the world a definite formula of the policy and in committing all the Powers addressed to its execution and observance.<sup>58</sup>

<sup>58</sup> Moore, Mr. Hay's Work in Diplomacy, article in *Review of Reviews*, Aug. 1905, Vol. 32, pp. 173-174.

## CHAPTER II

### THE GROWTH OF THE DOCTRINE

As the Open Door Doctrine is a policy directed toward a situation in China, its development runs parallel with the evolution of political conditions in China.

The general scramble in 1898 brought forth the first circular note of John Hay of September 6, 1899, but the Chinese reaction thereto took a more drastic form. Realizing that, should the struggle for leases and concessions continue, the wreckage of their heritage and the partition of their land would be imminent, the more enlightened elements responded with a zealous advocacy of reforms. Under the leadership of Kang Yii-wei, the Emperor issued edict after edict, instituting reforms one after another. But in doing so, the reform party injured the vested interests of conservative officials and even plotted against the power of the Empress Dowager. As a result, the conservative elements came back with a sharp reprisal, imprisoned the Emperor and brought into power the Empress Dowager,—thus ending the so-called Hundred Days of Reform.

With the ascension of the Empress Dowager, the course of Chinese affairs took a wrong direction.

Bigoted and anti-foreign, she attributed all the misfortunes of China to foreign oppression. Opportunely, the less enlightened elements of North China, actuated by the highest motives of saving China from the spoliations of the foreign powers, put on foot a movement known as the Boxers for the driving out of all "foreign devils" as a measure of averting the impending calamity of national partitionment. Taking advantage of the situation, the Empress Dowager secretly encouraged the movement and thus brought to pass the Boxer Uprising of 1900.

This fanatic uprising of the Chinese in the north brought China to the point of disruption. Having violated the law of nations in an unwarranted assault on the foreign legations and by a general massacre of foreigners, China stood a criminal before the bar of civilization. At this moment, John Hay issued his second circular, which, together with the first one of September 6, 1899, formed the initial utterances concerning the Open Door Doctrine. Perceiving that, unless the United States should take a positive attitude and adopt a firm policy, China would probably be partitioned by the European Powers, and thus the equal opportunity of trade so auspiciously instituted by the first circular would be completely nullified, Secretary Hay came out openly for the integrity of China, and on July 3, 1900, dispatched the following circular telegram to the Powers coöperating in China: <sup>1</sup>

<sup>1</sup> Dispatched to the U. S. Embassies in Berlin, Paris, London, Rome, and St. Petersburg, and to the U. S. Missions in Vienna, Brussels, Madrid, Tokio, the Hague, and Lisbon.

"In this critical posture of affairs in China it is deemed appropriate to define the attitude of the United States as far as present circumstances permit this to be done. We adhere to the policy initiated by us in 1857, of peace with the Chinese nation, of furtherance of lawful commerce, and of protection of lives and property of our citizens by all means guaranteed under extraterritorial treaty rights and by the law of nations. If wrong be done to our citizens we propose to hold the responsible authors to the uttermost accountability. We regard the condition at Peking as one of virtual anarchy, whereby power and responsibility are practically devolved upon the local provincial authorities. So long as they are not in overt collusion with rebellion and use their power to protect foreign life and property we regard them as representing the Chinese people, with whom we seek to remain in peace and friendship. The purpose of the President is, as it has been heretofore, to act concurrently with the other powers first, in opening up communication with Peking and rescuing the American officials, missionaries, and other Americans who are in danger; secondly, in affording all possible protection everywhere in China to American life and property; thirdly, in guarding and protecting all legitimate American interests; and fourthly, in aiding to prevent a spread of the disorders to the other provinces of the Empire and a recurrence of such disasters. It is, of course, too early to forecast the means of attaining this last result; but the policy of the Government of the United States is to seek a solution which may bring about permanent safety and peace to China, *preserve Chinese territorial and administrative entity*, protect all rights guaranteed to friendly powers by treaty and international law, and safeguard for the world the principal of equal and impartial trade with all parts of the Chinese Empire." <sup>2</sup>

Replying to the inquiry of the Chinese Minister as to the possibility of securing from the treaty Powers a

<sup>2</sup> Italics inserted. *U. S. For. Rel.*, 1900, p. 299; 1901, App., Affairs in China, p. 12; Pres. McKinley's Message Dec. 3, 1900, *Ibid.*, 1900, p. xiv.

guaranty of the territorial integrity of China or a self-denying ordinance,<sup>3</sup> John Hay replied on July 18, 1900, that the policy of the United States with reference to the territorial and administrative integrity of China was clearly set forth in the circular of July 3:

"In reference to your inquiry made this morning on behalf of the Grand Secretary Li Hung Chang, I have the honor to reply that the position and the intention of the United States Government in favor of the territorial and administrative integrity of China are set forth with sufficient clearness in our circular of the 3rd of July, that we still hold the same attitude, and that we have ground to believe that similar views are entertained by all the other powers."<sup>4</sup>

Again, when Mr. W. W. Rockhill was appointed Special Commissioner to China on July 19, 1900,<sup>5</sup> to examine and report on the situation, he was given the express instruction to guide his conduct by the circular letter of July 3, 1900:

"Though it is not possible at the present moment to lay down the precise lines on which you are to discharge the duties assigned you as commissioner of the United States to China, as supplementing the general oral instructions previously given you at the Department, it seems pertinent to inform you that your special duty will be to promptly and fully inform the Department on all subjects coming to your knowledge bearing on the present general condition of affairs in China, and particularly on all points in any way affecting the interests of the United States.

<sup>3</sup> Pro memoria of the Chinese Min. Wu Ting-fang, July 18, 1900, *U. S. For. Rel.*, 1900, p. 279.

<sup>4</sup> Sec. Hay to Min. Wu, July 18, 1900, *Ibid.*, p. 379.

<sup>5</sup> *Ibid.*, p. 156; Moore, *Int. Law Digest*, Vol. 5, p. 489.

"As regards the policy of the United States in China, you will be guided by my instruction of July 3, and, as supplementary thereto, by my note to the Chinese minister in Washington under date of July 19, and the President's letter, dated July 23, to the Emperor of China."<sup>6</sup>

Accordingly, in the subsequent negotiations for the settlement of the Boxer Trouble, the policy of the United States as set forth in the circular telegram of July 3, 1900, for the preservation and maintenance of the territorial and administrative integrity of China, guided the actions of the representative of the United States. Regarding the punishment of the responsible instigators and actual perpetrators of the anti-foreign outrages, the United States representative declined to determine in every case the nature of punishment and maintained that China should impose it in all cases. With reference to the list of responsible culprits for proscription and punishment, an attitude of moderation and prudence was taken. The list was repeatedly revised and the form of punishment reduced. Respecting the prevention of a recurrence of the uprising, the United States Representative discountenanced any proposal of prolonged occupation of any portions or points in China, or of the erection of an international fort in Peking from which to carry on friendly relations with the Chinese Government, and was always in favor of a strong, independent, and responsible Chinese Government, which could maintain order and

<sup>6</sup> Sec. Hay to Com. Rockhill, July 27, 1900, *U. S. For. Rel.*, 1900, p. 157. For President's letter, see *Ibid.*, p. 294; Moore, *Int. Law Digest*, Vol. 5, p. 488.



peace and render protection and security to foreign citizens and their rights under the treaties. As to reparations, the attitude was adopted that the sum total thereof should not exceed a reasonable amount and should be well within the capacity of China to pay, that a lump sum of indemnity should be exacted to be divided subsequently among the Powers interested according to their losses and disbursements, and that the mode of payment should be rendered as accommodating to China as was feasible. W. W. Rockhill, Special - Commissioner of the United States, who succeeded the American Minister as negotiator from February 23 to September 7, 1901, was able to report that the conduct of the United States Representative was guided throughout the negotiations by the instructions contained in the circular telegram of July 3, 1900:

"The circular note which you telegraphed on July 3, 1900, to our embassies in Europe and to our missions in Vienna, Brussels, Madrid, Tokio, The Hague, and Lisbon defined the policy then already adopted by the United States in the settlement of affairs in China and from which they never departed. Bearing these instructions always in mind, the task of the agents of our Government in Peking was a comparatively easy one. Throughout the negotiations our object was to use the influence of our Government in the interest of justice and moderation and in a spirit of equal friendship to the powers negotiating jointly with us and the Chinese nation." <sup>7</sup>

Thus, it is seen that throughout the crisis of the Boxer Uprising, when China's fate was in the balance,

<sup>7</sup> Rockhill's report, Nov. 30, 1901, *U. S. For. Rel.*, 1901, App., p. 3; *H. Docs.*, 57th Cong. 1st Sess., No. 1; *Sen. Docs.*, No. 67.

the second circular note of John Hay, declaring for the preservation and maintenance of the territorial and administrative integrity of China, was the guiding principle of the American policy in China. And since then, it is to be observed, the principle of the integrity of China has become a coördinate and complementary principle to that of equal opportunity of trade as defined in the Open Door Doctrine.

Meanwhile, these principles had been asserted from another direction, namely, from Great Britain and Germany. In order to check the Russian advance in Manchuria and to maintain freedom of trade and economic opportunity, the two Powers concluded the Anglo-German Agreement on October 16, 1900, affirming the Open Door Doctrine (Art. I), pledging to uphold the territorial integrity of China (Art. II), and, in case of any power making use of the complications to gain territorial advantages, agreeing to come to an understanding to protect their interests (Art. III).

"I. It is a matter of joint and permanent international interest that the ports on the rivers and littoral of China should remain free and open to trade and to every other legitimate form of economic activity for the nationals of all countries without distinction; and the two Governments agree on their part to uphold the same for all Chinese territory as far as they can exercise influence.

"II. Her Britannic Majesty's Government and the Imperial German Government will not, on their part, make use of the present complication to obtain for themselves any territorial advantages in Chinese dominions, and will direct their policy

toward maintaining undiminished territorial conditions of the Chinese Empire.

"III. In case of another Power making use of the complications in China in order to obtain under any form whatever such territorial advantages, the two Contracting Parties reserve to themselves to come to a preliminary understanding as to the eventual step to be taken for the protection of their own interests in China.

"IV. The two Governments will communicate this Agreement to the other Powers interested, and especially to Austro-Hungary, France, Italy, Japan, Russia, and the United States of America, and will invite them to accept the principles recorded in it." <sup>a</sup>

To the dispatches of the British and German Governments, John Hay replied, on October 29, 1900, reaffirming the principles of the Open Door Doctrine:

"The United States have heretofore made known their adoption of both these principles [I and II]. During the last year this Government invited the powers interested in China to join in an expression of views and purposes in the direction of impartial trade with that country and received satisfactory assurances to that effect from all of them. When the recent troubles were at their height this Government, on the 3d of July, once more made an announcement of its policy regarding impartial trade and the integrity of the Chinese Empire and had the gratification of learning that all the powers held similar views. And since that time the most gratifying harmony has existed among all the nations concerned as to the ends to be pursued, and there has been little divergence of opinion as to the details of the course to be followed.

"It is therefore with much satisfaction that the President

<sup>a</sup> MacMurray, No. 1900/5; Moore, *Int. Law Digest*, Vol. 5, p. 549; *U. S. For. Rel.*, 1900, p. 354.

directs me to inform you of the full sympathy of this Government with those of Her Britannic Majesty and the German Emperor in the principles set forth in the clauses of the agreement above cited. . . .

"As this clause [III] refers to a reciprocal arrangement between the two high contracting powers the Government of the United States does not regard itself as called upon to express an opinion in respect to it."<sup>9</sup>

Notwithstanding the assertion of the Open Door Doctrine in the Anglo-German Agreement, it was subsequently discovered that Germany entered into the agreement with the motive of depriving the British of their exclusive rights in the Yangtze Valley and without the intention of applying the principle of the integrity of China to Manchuria. In his famous speech made in the Reichstag, March 15, 1901, von Bülow said in substance:

"The Anglo-German Agreement has no reference to Manchuria ('Hear, hear' and sensation). . . . I can now add that during the negotiations which led to the conclusion of this Agreement, we left no room for any doubt that we did not take it as applying to Manchuria. . . . As regards the future of Manchuria—really, gentlemen, I can imagine nothing which we regard with more indifference. ('Hear, hear,' on the right.)"<sup>10</sup>

As a condition for the evacuation of Shanghai following the Boxer Expedition, Germany especially insisted on the Open Door in the Yangtze:

<sup>9</sup> Sec. Hay to Brit. Am., Oct. 29, 1900, similar note to Ger. Embassy. *U. S. For. Rel.*, 1900, pp. 355, 373; see also circular telegram Oct. 22, 1900, *Ibid.*, p. 307.

<sup>10</sup> *London Times*, March 16, 1901, p. 7; Hay's letter to Henry Adams, Nov. 21, 1900, Thayer, *Life of John Hay*, Vol. 2, p. 248.

"The Peking Government and the Yangtze Viceroys shall engage not to grant to any power special advantage of a political, military, maritime or economic nature, nor to allow the occupation of any other points commanding the river either below or above Shanghai." <sup>11</sup>

Japan and Great Britain protesting against this, as a consequence no secret agreement relating thereto was signed, but a general declaration was professed to have been received by the German Government that the Open Door would be maintained in the Yangtze Valley. <sup>12</sup>

Returning to the Boxer Uprising: after that episode, the Open Door Doctrine was directed mainly against the Russian advance in Manchuria, until the conclusion of the Russo-Japanese War, when the Russian aggression in that region was effectively checked by the sword of Japan.

Recalling the Russian reply to John Hay's first circular note of September 6, 1899, there was no mention made therein as to the uniformity of harbor dues and railway charges, answer being made only to the other pertinent matters. It was subsequently revealed that Russia did not intend to make a favorable reply, having counted on the refusal of her ally,

<sup>11</sup> Baron Eckardstein to Lord Lansdowne, Oct. 7, 1902, Brit. For. Off., *China No. 3*, (1902: *Parl. Papers*, Vol. 130), No. 22.

<sup>12</sup> *Ibid.*, Nos. 26, 31, 41. It is here to be remarked that it was the German declaration of considering Manchuria as outside of the purview of the Anglo-German Agreement and the avowed policy of Germany of silently countenancing the Russian expansion in the Far East so as to avoid a collision with Germany in Europe (von Bülow, *Imperial Germany*, translation, p. 44), that encouraged Russia to advance boldly and aggressively in Manchuria, and that tacitly helped to jeopardize the rule of the Open Door Doctrine in China.



France, and of the other Powers, to accede to the United States proposal, but she was compelled by the moral validity of the proposals and force of circumstances to assent in a partial way to Hay's first circular note, which she regretted subsequently:

"Next to England, Hay regarded Russia as the most important party to the agreement. Russia would sign no paper, but her Foreign Minister, Count Mouravieff, gave an oral promise to do what France did. Later, he 'flew into a passion' and insisted upon it that Russia would never bind herself in that way; that whatever she did she would do alone and without the concurrence of France. 'Still,' Hay adds, 'he did say it, he did promise, and he did enter into just that engagement. It is possible that he did so thinking France would not come in, and that other Powers would not. If now they choose to take a stand in opposition to the entire civilized world, we shall then make up our mind what to do about it. At present I am not bothering much.'"<sup>13</sup>

Taking advantage of the Boxer Uprising, the Russian designs on Manchuria were fully disclosed. Quite in line with her traditional policy of territorial expansion, she occupied Manchuria. Her troops entered Mukden on October 2, 1900. She hoisted her flag over the Newchwang Customs House on August 4, 1900. On August 28, she declared that her occupation of Manchuria was a merely temporary measure of military necessity, and that as soon as peace and order should be restored, she would withdraw her troops, "provided that such action did not meet

<sup>13</sup> To Henry White, April 2, 1900, Thayer, *Life of John Hay*, Vol. 2, pp. 242-243.



with obstacles caused by the proceedings of other Powers." <sup>14</sup>

Having done so, her task was to secure the recognition of the Chinese Government. The tactics employed in this move were parallel to those of 1860, when she wrested the Amur and Maritime regions from China. As she then pretended to be friend and saviour of the Manchu Dynasty by inducing the quick withdrawal of the British and French forces from Peking, she now repeated the same strategy. Shortly after the relief of the allied legations, she proposed to the Powers to withdraw their diplomatic agents and military forces from Peking to Tientsin and there wait for negotiations, which proposal, however, was not accepted by the allies.<sup>15</sup> Again, during the negotiations, she was in favor of referring the question of the amount of indemnity to the Hague Tribunal, and disposed to be lenient and moderate in regard to the punishment of the principal culprits.<sup>16</sup> Thus by posing as friend of China, as she had done many times before, she expected that thereby she could win the cession of Manchuria, as she had won the Amur and Maritime regions in 1860. To this end, while the allies were negotiating the final protocol of peace, in November, 1900, she entered into a separate convention with the Tartar General Tseng of Mukden,<sup>17</sup> making

<sup>14</sup> Brit. For. Off., *China No. 1* (1901: *Parl. Papers*, Vol. 91), No. 256.

<sup>15</sup> H. B. Morse, *International Relations of the Chinese Empire*, Vol. 3, pp. 305-306.

<sup>16</sup> *Ibid.*, pp. 340, 341.

<sup>17</sup> Brit. For. Off., *China No. 2* (1904: *Parl. Papers*, Vol. 110), Nos. 3, 5, 11; Asakawa, *Russo-Japanese Conflict*, pp. 166-168.

Manchuria a de facto Russian protectorate. The Province of Fengtian was to be disarmed; its military government invested in Russian hands; its civil government, though left in the hands of Chinese officials, was to be under the supervision of a Russian political resident to be stationed at Mukden.

This convention constituted a direct challenge to the Open Door Doctrine, and jeopardized the principles of integrity of China and equal opportunity of trade. Following the protests of Japan, Great Britain and Germany against the ratification of the agreement the United States made formal representation of protest.<sup>18</sup>

Because of the opposition of the Powers, the agreement failed to obtain the necessary ratification. Thereupon Russia made a further attempt by the conclusion in the early part of 1901 of what was known as the Lamdorff-Yangyu Convention,<sup>19</sup> which restricted China's sovereign rights with respect to armament in Manchuria and prohibited the employment of foreign instructors other than Russian to drill troops in North China. Mining rights and construction of railways in Manchuria, Mongolia, Tarbagatai, Ili, Kashgar, Yarkand, and Khoten were conceded, and at the same time Russia received a railroad concession from a point on the Russian Manchurian line to the Great Wall in the direction of Peking.

As against the pressure of Russia to ratify the convention, on February 28, 1901, the Emperor of

<sup>18</sup> *China No. 2* (1904), Nos. 8, 9, 12, 13, 19; *U. S. For. Rel.*, 1901, App., p. 363.

<sup>19</sup> *China No. 2* (1904), Nos. 6, 14, 25, 42; *London Times*, Feb. 28, 1901, p. 5.

China appealed to Germany, Japan, Great Britain and the United States for mediation.<sup>20</sup> In response, Great Britain,<sup>21</sup> Germany,<sup>22</sup> and Japan<sup>23</sup> made representations cautioning China not to sign the convention. Thus the endeavor was again foiled.

Russia continued to negotiate, and in December the terms of the proposed Manchurian Convention became known. Upon the inquiry of the American Minister as to what action to take in regard to the restriction of China's sovereign rights of armament in Manchuria and railway construction in southern portions thereof,<sup>24</sup> John Hay instructed Minister Conger to take an early opportunity to advise the Chinese Government that no arrangement should be made that permanently infringed upon the territorial integrity of China or injured the legitimate interests of the United States, or impaired the ability of China to meet her international obligations.<sup>25</sup>

In addition to the convention, Russia pressed for the grant of the monopoly of the economic development of Manchuria to the Russo-Chinese Bank. According to the version of Prince Ching, besides the railway concessions stipulated, the Russo-Chinese Bank was to receive the assurance of the right of option. China could undertake the industrial development of Manchuria herself, but if foreign capital should be

<sup>20</sup> *China No. 2* (1904), No. 16.

<sup>21</sup> *Ibid.*, No. 21.

<sup>22</sup> *Ibid.*, Nos. 22, 23.

<sup>23</sup> *Ibid.*, No. 28.

<sup>24</sup> Min. Conger to Sec. Hay, Dec. 3, 1901, *U. S. For. Rel.*, 1902, p. 271.

<sup>25</sup> Sec. Hay to Min. Conger, Dec. 6, 1901, *Ibid.*, p. 271.

needed, application should first be made to the Russo-Chinese Bank, and, should it decline, then citizens of other states might undertake the concessions.<sup>26</sup> On February 1, 1902, John Hay protested against these demands:

"An agreement by which China cedes to any corporation or company the exclusive right and privilege of opening mines, establishing railroads, or in any other way industrially developing Manchuria, can but be viewed with the gravest concern by the Government of the United States. It constitutes a monopoly, which is a distinct breach of the stipulations of treaties concluded between China and foreign powers, and thereby seriously affects the rights of American citizens; it restricts their rightful trade and exposes it to being discriminated against, interfered with, or otherwise jeopardized, and strongly tends toward permanently impairing the sovereign rights of China in this part of the Empire, and seriously interferes with her ability to meet her international obligations. Furthermore, such concession on the part of China will undoubtedly be followed by demands from other powers for similar and equal exclusive advantages in other parts of the Chinese Empire, and the inevitable result must be the complete wreck of the policy of absolute equality of treatment of all nations in regard to trade, navigation, and commerce within the confines of the Empire.

"On the other hand, the attainment by one power of such exclusive privileges for a commercial organization of its nationality conflicts with the assurances repeatedly conveyed to this Government by the Imperial Russian ministry of foreign affairs of the Imperial Government's intention to follow the policy of the open door in China, as advocated by the Government of the United States and accepted by all the treaty powers having commercial interests in that Empire.

<sup>26</sup> Min. Conger to Sec. Hay, Jan. 29, 1902, *U. S. For. Rel.*, 1902, pp. 273-274.

"It is for these reasons that the Government of the United States, animated now, as in the past, with the sincerest desire of insuring to the whole world the benefits of full and fair intercourse between China and the nations on a footing of equal rights and advantages to all, submits the above to the earnest consideration of the Imperial Governments of China and Russia, confident that they will give due weight to its importance and adopt such measures as will relieve the just and natural anxiety of the United States."<sup>27</sup>

This note of protest is the first emphatic and vigorous assertion and application of the Open Door Doctrine following its enunciation by the circular notes of September 6, 1899, and of July 3, 1900. It stated, in short, that the grant of exclusive rights to open mines and construct railways, and other industrial privileges, contravened the treaty rights of the citizens of the United States by restricting rightful trade, and tended to impair the sovereignty of China and to encourage similar demands for exclusive rights from other Powers, thereby destroying equal opportunity of trade, and conflicting with the American policy of the Open Door.

At this crisis, when the negotiations between Russia and China were still pending, Great Britain and Japan concluded the Anglo-Japanese Alliance on January 30, 1902. In the preamble, the Open Door Doctrine was asserted:

<sup>27</sup> Sec. Hay to Min. Conger, Feb. 1, 1902, *U. S. For. Rel.*, 1902, p. 275; also see enclosure of letter from Hay to the Chinese Minister, Feb. 3, 1902. The letter of protest was sent to the U. S. representatives in Austria, Belgium, China, France, Germany, Great Britain, Italy, Japan, Netherlands, Russia, and Spain.



"The Governments of Great Britain and Japan, actuated solely by a desire to maintain the *status quo* and general peace in the extreme East, being moreover specially interested in maintaining the independence and territorial integrity of the Empire of China and the Empire of Corea, and in securing equal opportunities in those countries for the commerce and industry of all nations, hereby agree. . . ." <sup>28</sup>

The purpose, as is well known, was to check the Russian advance in Manchuria. The alliance made it possible for Japan, if necessary, to fight Russia without the participation of France, Russia's ally, or any other nation.<sup>29</sup>

Scenting the approach of determined opposition, Russia quickly changed front. On March 3 (16), 1902, conjointly with her ally, France, she made a declaration that the Open Door principles as embodied in the Anglo-Japanese Agreement constituted the foundation of their policy, reserving to themselves, meanwhile, freedom of action in case of the aggressive action of third Powers or renewed disturbances in China.<sup>30</sup> On March 26 (April 8), 1902,<sup>31</sup> she concluded a convention with China, pledging to restore the Shanhaikwan-Newchwang-Sinminting Railway and to complete the evacuation of Manchuria in three successive periods of six months each.

<sup>28</sup> *Brit. and For. State Papers*, Vol. 95, pp. 83-84; *U. S. For. Rel.*, 1902, pp. 514-515.

<sup>29</sup> Letter of Marquis of Lansdowne to Sir C. MacDonald, Jan. 30, 1902, *Ibid.*, pp. 513-514.

<sup>30</sup> Memorandum handed to the Sec. of State, March 19, 1902, *Ibid.*, p. 931.

<sup>31</sup> *Ibid.*, p. 280; MacMurray, No. 1902/3; Hertslet, Vol. 1, No. 90, pp. 509-512.



When the specified date for the first stage of evacuation came, Russia effected only a nominal withdrawal, withdrawing from the parts that she had pledged to evacuate, but concentrating her withdrawn troops in other strategic centers of Manchuria where she was yet permitted to remain. When, however, the date for the second stage of evacuation arrived, she not only did not fulfill her engagement, but shortly after presented Seven Articles as conditions for further evacuation,<sup>32</sup> demanding, *inter alia*, the non-alienation of Manchuria (Art. I), the consent of Russia to the opening of Manchuria to foreign trade and the admission of consuls (Art. III), and the exclusive appointment of Russians to public service in Manchuria and Mongolia (Art. IV). Thereupon Great Britain and Japan protested.<sup>33</sup>

Reacting against the Seven Articles of Russia, John Hay, on April 25, 1903, instructed the American Minister at Peking to insist on compliance with the request of the United States for treaty ports and consulates in Manchuria, and on equal opportunity for foreigners in the public service of North China.<sup>34</sup> On the same date he directed the American representative at St. Petersburg to state to the Russian Foreign Office that the articles in the proposed Russo-Chinese Convention, prohibiting the establishment of treaty ports and consulates, and excluding all foreigners, except Russians, from employment in the Chinese public

<sup>32</sup> *China No. 2* (1904), No. 94; *U. S. For. Rel.*, 1903, p. 56.

<sup>33</sup> *China No. 2* (1904), Nos. 79, 80.

<sup>34</sup> *U. S. For. Rel.*, 1903, p. 54.

service in North China, were contrary to the plans communicated by the United States to the Russian Government and injurious to the legitimate interests of the United States.<sup>35</sup> Meanwhile, vigorously asserting the Open Door Doctrine, by the Chino-American Treaty of Commerce, signed on October 8, 1903,<sup>36</sup> Mukden and Antung in Manchuria were opened to trade (Art. XII), thus preventing Manchuria from being closed to the commerce of the world. On the same date, Japan likewise concluded a Treaty of Commerce and Navigation<sup>37</sup> opening Mukden and Tatung-kow to foreign trade (Art. X).

At this juncture, when Russia was forcing the Seven Articles upon China and, what is worse, had concentrated her troops at Liaoyang, had occupied Feng-hangching and Antung, and had sent troops across the Yalu River into Korea, threatening the safety of Korea and Japan, Japan stepped into the arena and waged a diplomatic duel against Russia, which led finally to the Russo-Japanese War of 1904-1905. Repeatedly did Japan insist that Russia should respect the integrity of China in Manchuria. Repeatedly did Russia fail to give this pledge. Diplomatic relations were thereupon severed and war declared.

During the war, the great problem was the maintenance of the neutrality of China. On February 10, 1904, consistent with the doctrine that China's sovereignty should be respected in war as well as in peace,

<sup>35</sup> *U. S. For. Rel.*, 1903, p. 708; *China No. 2* (1904), No. 85.

<sup>36</sup> MacMurray, No. 1903/5.

<sup>37</sup> *Ibid.*, No. 1903/4.

upon the suggestion of the German Kaiser, William II,<sup>38</sup> John Hay gave the following instructions to the American Ministers accredited to the belligerent Powers and China, a copy of which was transmitted to all the Powers signatory to the Protocol of Peking, requesting each of them to make similar representations to Russia and Japan:

"You will express to the minister of foreign affairs the earnest desire of the Government of the United States that in the course of the military operations which have begun between Russia and Japan the neutrality of China and in all practical ways her administrative entity shall be respected by both parties, and that the area of hostility shall be localized and limited as much as possible, so that undue excitement and disturbance of the Chinese people may be prevented and the least possible loss to the commerce and peaceful intercourse of the world may be occasioned."<sup>39</sup>

Favorable responses were received from both belligerents. Japan agreed to respect China's neutrality and administrative entity outside the regions occupied by Russia, "as long as Russia, making a similar engagement, fulfills in good faith the terms and conditions of such engagement,"<sup>40</sup> Russia accepted the conditions providing that China observe her own neutrality, Japan respect that neutrality, and Manchuria be excluded from the scope of neutralization.<sup>41</sup> John Hay, on February 20, 1904, dispatched another circular letter, *mutatis mutandis*, to all the diplomatic repre-

<sup>38</sup> Thayer, *Life of John Hay*, Vol. 2, p. 372.

<sup>39</sup> Feb. 10, 1904, *U. S. For. Rel.*, 1904, p. 2.

<sup>40</sup> Baron Komura to Min. Griscom, Feb. 13, 1904, *Ibid.*, p. 420.

<sup>41</sup> Amb. McCormick to Sec. Hay, Feb. 19, 1904, *Ibid.*, p. 724.

sentatives of the United States respecting China's neutrality and administrative entity.<sup>42</sup>

At the beginning of 1905, again at the instance of the German Emperor, who was firmly convinced that a powerful coalition, headed by France, was under formation directed against the integrity of China and the Open Door,<sup>43</sup> and that the formation of this coalition could be frustrated by asking all the Powers having interests in the Far East, including the minor ones, whether they were prepared to give a pledge not to demand any compensation for themselves in the form of territory or other compensation, in China or elsewhere, for any service rendered to the belligerents in the making of peace or for any other reason,<sup>44</sup> John Hay dispatched a circular on January 13, 1905, reaffirming the Open Door Doctrine and requesting that in the final negotiations between Russia and Japan, no claims would be made by neutral Powers at the expense of China's territorial integrity:

"It has come to our knowledge that apprehension exists on the part of some of the powers that in the eventual negotiations for peace between Russia and Japan claim may be made for the concession of Chinese territory to neutral powers. The President would be loath to share this apprehension, believing that the introduction of extraneous interests would seriously embarrass and postpone the settlement of the issues involved in the present contest in the Far East, thus making more remote the attainment of that peace which is so earnestly to be desired.

<sup>42</sup> Feb. 20, 1904, *U. S. For. Rel.*, 1904, p. 2.

<sup>43</sup> Diary of John Hay, dated Jan. 5, 1905, Thayer, *Life of John Hay*, Vol. 2, p. 385.

<sup>44</sup> *Ibid.*, p. 385.

For its part, the United States has repeatedly made its position well-known, and has been gratified at the cordial welcome accorded to its efforts to strengthen and perpetuate the broad policy of maintaining the integrity of China and the 'open door' in the Orient, whereby equality of commercial opportunity and access shall be enjoyed by all nations. Holding these views, the United States disclaims any thought of reserved territorial rights or control in the Chinese Empire, and it is deemed fitting to make this purpose frankly known and to remove all apprehension on this score so far as concerns the policy of this nation, which maintains so considerable a share of the Pacific commerce of China and which holds such important possessions in the Western Pacific, almost at the gateway of China." <sup>45</sup>

Favorable responses were received from Austria-Hungary,<sup>46</sup> Belgium,<sup>47</sup> France,<sup>48</sup> Germany,<sup>49</sup> Great Britain,<sup>50</sup> Italy,<sup>51</sup> and Portugal,<sup>52</sup> all concurring in the principles of the integrity of China and the Open Door.

Subsequently, in the Treaty of Portsmouth, September 5, 1905,<sup>53</sup> concluding peace between Russia and Japan, the two Powers agreed to evacuate Manchuria and to restore the territory to the exclusive administra-

<sup>45</sup> Circular telegram to the American representatives to Austria, Belgium, France, Germany, Great Britain, Italy, and Portugal, Jan. 13, 1905, *U. S. For. Rel.*, 1905, p. 1.

<sup>46</sup> Amb. Stover to Sec. of State, Jan. 24, 1905, enclosing the note of the Austro-Hungarian Minister of Foreign Affairs to Amb. Stover, Jan. 23, 1905, *Ibid.*, pp. 1-2.

<sup>47</sup> Min. Townsend to Sec. of State, Jan. 30, 1905, enclosing note of the Belgian Minister of Foreign Affairs, Jan. 28, 1905, *Ibid.*, pp. 2-3.

<sup>48</sup> Amb. Porter to Sec. of State, Jan. 18, 1905, *Ibid.*, p. 3.

<sup>49</sup> Amb. Tower to Sec. of State, Jan. 20, 1905, enclosing von Bülow's note to Amb. Tower, Jan. 18, 1905, *Ibid.*, p. 3.

<sup>50</sup> Amb. Choate to Sec. of State, Jan. 14, 1905, *Ibid.*, p. 4.

<sup>51</sup> Amb. Meyer to Sec. of State, Jan. 14, 1905, *Ibid.*, p. 4.

<sup>52</sup> Min. Bryan to Sec. of State, Feb. 21, 1905, enclosing the note of the Portugal Minister of Foreign Affairs to Min. Bryan, Feb. 18, 1905, *Ibid.*, p. 4.

<sup>53</sup> MacMurray, No. 1905/8.

tion of China, excepting the leased territory in the Liaotung Peninsula which was transferred to Japan. No Chinese territory was ceded or alienated to any of the belligerents or neutrals. Further, the Imperial Government of Russia declared that it did not possess any territorial advantages or preferential or exclusive concessions in Manchuria in impairment of Chinese sovereignty or inconsistent with the principle of equal opportunity (Art. III).



## CHAPTER III

### THE PRACTICAL ASSERTION OF THE DOCTRINE

AFTER the Russo-Japanese War, the Open Door Doctrine, reflecting as it does the development of political situations in the Far East, was directed mainly against two factors in Far Eastern politics,—the advance of Japan and the international struggle for concessions in China.

After the victory of the Russo-Japanese War, the policy of Japan toward China took a radical turn. She directed it toward the mainland of Asia. That is, she launched upon the career and policy of continental expansion. To execute this policy, she had first to make several strategic moves. The first was the subjugation and annexation of Korea. Just as any power attempting to invade Japan from the direction of the Asiatic mainland must first conquer Korea, so likewise Japan must first subjugate and control Korea and make that state a stepping-stone toward the domination of Eastern Asia. She set herself assiduously to the task, and in 1910 the annexation of Korea was consummated.<sup>1</sup>

<sup>1</sup> Treaty of Annexation, Aug. 22, 1910, *Brit. and For. State Papers*, Vol. 103, p. 992.

Having made Korea a stepping-stone, she was desirous to unfold her policy in China. But she found there was one great obstacle in her way,—the presence of the Western Powers. Because of the balance of power, she was not able to move in the direction she wished without arousing the jealousy and opposition of the other Powers. She had therefore to wait for the proper opportunity.

During this period, Japan supplemented her policy of advance in China with international agreements so as to avoid unnecessary conflicts. This was one of the policies laid down by Hayashi—the policy of simultaneous political and economic expansion, facilitated by international agreements.<sup>2</sup> Discarding her old hostility and adopting a policy of friendliness toward Russia, she concluded the agreement of July 30, 1907, in which both Powers agreed to respect the territorial integrity of each other and mutually pledged to maintain the *status quo* in their respective spheres,<sup>3</sup> declaring at the same time for the maintenance of the principles of the Open Door Doctrine (Art. II). As a result of this understanding, she failed to protest against the Russian establishment of municipal administration in Harbin in 1907, which right she had denied Russia before the Russo-Japanese War. Reacting against the intrusion of the Knox neutralization plan, she entered a second agreement with Russia, on July 4, 1910, engaging to take common measures against outside interference with their interests or with

<sup>2</sup> A. M. Pooley, *Japan's Foreign Policies*, p. 47.

<sup>3</sup> MacMurray, No. 1907/11.

the *status quo* within their respective spheres of influence.<sup>4</sup> During the World War, she entered into a secret treaty of alliance with Russia in 1916, in which they mutually promised armed assistance in case of war.<sup>5</sup> Likewise, on June 10, 1907, she arranged an agreement with France,<sup>6</sup> Russia's ally in the Dual Alliance, for mutual support in their respective spheres in Asia, thereby incidentally facilitating the flotation of her loans in Paris and promoting her trade in Annam.

Meanwhile, she renewed her alliance with Great Britain on August 12, 1905, pledging armed assistance in case of unprovoked attack or aggressive action by any third power. The force of the treaty was extended to include not only China and Korea but also India, and Great Britain recognized her paramountcy in Korea. The maintenance of the Open Door principles was stated to be one of the objects of the alliance:

"The preservation of the common interests of all Powers in China by insuring the independence and integrity of the Chinese Empire and the principle of equal opportunities for the commerce and industry of all nations in China."<sup>7</sup>

On July 13, 1911, in order to relieve the embarrassment of Great Britain in the contingency of a conflict between the United States and Japan, the agreement

<sup>4</sup> MacMurray, No. 1910/1. Also see Siebert and Schreiner, *Entente Diplomacy and the World*, pp. 17, 39, for draft of the Secret Treaty and the Secret Convention between Russia and Japan, the latter in regard to Mongolia.

<sup>5</sup> MacMurray, No. 1916/9.

<sup>6</sup> *Ibid.*, No. 1907/7.

<sup>7</sup> *Brit. and For. State Papers*, Vol. 98, p. 136.

of alliance was revised and renewed. The stipulations on Korea, which had been annexed in the year previous, were eliminated, but a new clause was added (Art. IV) excluding a third power having the relation of a general treaty of arbitration with either of the high contracting Powers from the force of the treaty of alliance.<sup>8</sup> This referred particularly to the United States of America. The maintenance of the Open Door principles was again declared to be one of the objects of the alliance.

Meanwhile, Japan's advance in Manchuria threatened the reign of the Open Door Doctrine. Immediately after the conclusion of the Russo-Japanese War she endeavored to linger in Manchuria so that she could have a chance to achieve a position of paramount influence, if not domination. On February 23, 1906, the Secretary of State learned that in spite of the long period of time which had intervened since the operation of the treaty of peace, American merchants were still prevented from entering Manchuria by way of Newchwang, and that while the Japanese tobacco interests were permitted to enter, the American tobacco agents were excluded.<sup>9</sup> The Department of State also learned that the actions of the Japanese authorities in Manchuria during the occupation tended to establish paramount commercial influence, leaving little or no room for other foreign trade by the time the territory should be evacuated, thereby violating

<sup>8</sup> *Brit. and For. State Papers*, Vol. 104, p. 173.

<sup>9</sup> Enclosure 2, Feb. 23, 1906, to letter from Chargé Wilson to Sec. of State, March 15, 1906, *U. S. For. Rel.*, 1906, p. 173.

the Open Door principle of equal opportunity.<sup>10</sup> The Secretary of State therefore instructed the American Representative at Tokio to bring the matter to the attention of the Japanese Foreign Office.<sup>11</sup> Meanwhile, it was reported that the British Embassy had also made representations to the same effect.<sup>12</sup> In response, the Japanese Foreign Office explained that the temporary exclusion was due to military necessity and assured that the Open Door would be observed in Manchuria.<sup>13</sup>

Again, the Department of State was informed that the goods of the British-American Tobacco Company, upon arriving at Dalny and Mukden, and handled by Chinese sub-agents, were subjected to duties and likin taxes, from which the shippers of Japanese cigarettes and tobacco were exempt. The Acting Secretary of State thereupon gave the direction to protest against this infraction of the Open Door principle.<sup>14</sup> Learning that the customs house at Newchwang was collecting tariff duties, whereas there were no customs houses in operation on the borders between China and Russia, or between China and Japan, thus giving an undoubted advantage to Japanese and Russian merchants, the Department of State exerted vigorous pressure upon China, Japan and Russia to arrange for the establish-

<sup>10</sup> Sec. of State to Chargé Wilson, March 24, 1906, *U. S. For. Rel.*, 1906, p. 174.

<sup>11</sup> *Ibid.*, p. 174.

<sup>12</sup> Chargé Wilson to Sec. of State, March 28, 1906, *Ibid.*, pp. 174, 175.

<sup>13</sup> Marquis Saionji to Chargé Wilson, April 11, 1906, enc. in Chargé Wilson's letter to Sec. of State, April 12, 1906, *Ibid.*, p. 179; see also memorandum handed to Sec. of State, by Japanese Chargé, April 12, 1906, *Ibid.*, p. 180.

<sup>14</sup> Acting Sec. of State to Min. Rockhill, April 20, 1906, *Ibid.*, p. 186.



ment of customs houses at the points of commercial entrance, or to make Newchwang a free port.<sup>15</sup>

Subsequently, on November 30, 1908, taking advantage of the occasion when the Gentlemen's Agreement excluding Japanese coolies from the United States was concluded, Elihu Root, then Secretary of State, and the Japanese Ambassador, K. Takahira, entered into a convention known as the Root-Takahira Agreement, setting forth as among their understandings the maintenance of the Open Door Doctrine in China:

"They are also determined to preserve the common interests of all powers in China by supporting by all pacific means at their disposal the independence and integrity of China and the principle of equal opportunity for commerce and industry of all nations in that Empire."<sup>16</sup>

A further assertion of the Open Door Doctrine in Manchuria should also be noticed. In January, 1907, the Chinese Eastern Railway Company, founded by the Russo-Chinese Bank, attempted to establish a municipal administration in Harbin and in other cities or towns within the zone of the Chinese Eastern Railway. The action of the company purported to have been based on Article VI of the original railroad grant made by China to the company dated September 8, 1896:

<sup>15</sup> Min. Rockhill to Sec. Root, Aug. 30, Sept. 3, 1906, Sec. Root to Min. Rockhill, Oct. 4, *U. S. For. Rel.*, 1906, pp. 220, 221, 224; see also Art. VI of Chinese Customs Tariff Treaty, Feb. 6, 1922, *Sen. Docs.*, 67th Cong., 2d Sess., No. 126, p. 901.

<sup>16</sup> *U. S. For. Rel.*, 1908, p. 511.



"La Société aura le droit absolu et exclusif de l'administration de ses terrains."<sup>17</sup>

The Chinese Government, on the other hand, contended that the railway grant, being a mere business transaction, did not involve the surrender of any rights of sovereignty; and that, inasmuch as Article V stipulated that:

"The Chinese Government will take measures for the protection of the line and the men employed thereon; . . . all crimes and law suits arising on the land of the company will be dealt with by the local officials in accordance with the treaty;"<sup>18</sup>

it was clearly shown that the sovereignty of China over the railway zone was in no way surrendered.

Inasmuch as this attempt of the Chinese Eastern Railway Company to establish municipal administration in Harbin violated the fundamental principle of the sovereignty of China and the scrupulous observance of the stipulation in the Treaty of Portsmouth (Art. III):

"The Imperial Government of Russia declare that they have not in Manchuria any territorial advantages or preferential or exclusive concessions in impairment of Chinese sovereignty or inconsistent with the principle of equal opportunity."<sup>19</sup>

Elihu Root, then Secretary of State, lodged vigorous protests:

"The grant by the instrument of September 8, 1896, to the railroad company of a right of railroad administration over its

<sup>17</sup> MacMurray, No. 1896/5.

<sup>18</sup> *U. S. For. Rel.*, 1910, p. 203.

<sup>19</sup> MacMurray, No. 1905/8.

own lands could not, even if standing alone, be deemed to carry a right of political administration which would amount to a transfer of sovereign rights; but the same instrument, by the French as well as the Chinese text, contains also an express provision reserving the political jurisdiction over these lands to the Government of China. This view appears to agree entirely with that expressed by the Government of Russia in the declaration of the treaty of Portsmouth—that Russia has no territorial advantages or preferential or exclusive concessions in Manchuria of such a nature as to impair the sovereignty of China or which are incompatible with the principle of equal opportunity.

“The action of the American consul in Harbin seems to have gone no further than an informal and oral expression of opinion in accordance with this view, and especially with regard to a proposed ordinance, based upon the railroad concession, prohibiting foreigners to trade except upon receiving a license under the proposed municipal government, and a further ordinance subjecting all foreigners to the criminal jurisdiction of municipal courts not of their own nationality, both of which provisions would be a clear infringement upon the sovereignty of China and a deprivation of the rights which China has secured by treaty to the United States, under which the citizens of the United States in China are entitled to reside and trade and to be subject only to the jurisdiction of their own extra-territorial courts.”<sup>20</sup>

Further, Secretary Root took the position in this case that China's sovereignty was complete and unimpaired with the single exception of the grant of extra-territorial rights:

“This principle, which this Government conceives to be the true one, is, in substance, that the only basis for the exercise

<sup>20</sup> Sec. of State to Russian Amb., April 9, 1908, *U. S. For. Rel.*, 1910, pp. 204-205.

of governmental rights on the part of the officials of any country other than China within the Chinese Empire should lie in the extraterritorial rights granted by the treaties of China with the several powers."<sup>21</sup>

As a consequence, an agreement was finally reached between Russia and China, whereby China's sovereignty over the leased territory of the railway zone was recognized and the rights and privileges enjoyed by the subjects of other Powers under the treaties with China were fully preserved to them in the same zone.<sup>22</sup>

Meanwhile, immediately after the Russo-Japanese War, the much dreaded international struggle for concessions was again resumed,—a struggle which had called forth John Hay's original enunciation of the Open Door Doctrine and brought to pass the Boxer Uprising. As if the Boxer Uprising and the Russo-Japanese War had temporarily suspended the international rivalry, the new struggle commenced soon after the settlement of spheres of influence between Russia and Japan. Following the law of historical continuity, the first stage of the resumed struggle was to complete the undertakings initiated by the concessions acquired in the great scramble of 1898. Germany and Great Britain signed, on January 13, 1908,<sup>23</sup> the Tientsin-Pukow Loan Agreement, and later, on September 28, 1910,<sup>24</sup> a supplementary loan agreement for the same

<sup>21</sup> Memorandum to Russian Embassy, July 2, 1908, *U. S. For. Rel.*, 1910, p. 207.

<sup>22</sup> Preliminary agreement, and exchange of notes in regard to municipal administration in railway zone, May 10, 1909, MacMurray, No. 1914/14, p. 1185.

<sup>23</sup> *Ibid.*, No. 1908/1.

<sup>24</sup> *Ibid.*, No. 1910/4.

railway. Great Britain signed the Canton-Kowloon Railway Loan Agreement on March 7, 1907,<sup>25</sup> the Shanghai-Hangchow-Ningpo Railway Loan Agreement on March 6, 1908,<sup>26</sup> the Peking-Hankow Railway Redemption Loan Agreement on October 8, 1908,<sup>27</sup> and another loan agreement for the same purpose on August 1, 1910.<sup>28</sup>

The new contestant, who became a participant in the struggle for concessions by virtue of a successful war, was Japan. She was comparatively a late comer in this competition. By virtue of her brilliant victories, she succeeded to the southern half of the Chinese Eastern Railway from Changchun to Port Arthur by the Treaty of Portsmouth, September 5, 1905. In addition she now contested other railway concessions. For the Hsinminting-Mukden and the Changchun-Kirin Railways, she signed successive agreements, the first on April 15, 1907,<sup>29</sup> then a supplementary loan agreement on November 12, 1908,<sup>30</sup> and finally, two detailed agreements on August 18, 1909,<sup>31</sup> one for the Hsinminting-Mukden Railway and the other for the Changchun-Kirin Railway. On May 27, 1907,<sup>32</sup> however, Japan transferred the Hsinminting-Mukden Railway to the control of China. On August 19, 1909,<sup>33</sup> she

<sup>25</sup> MacMurray, No. 1907/2.

<sup>26</sup> *Ibid.*, No. 1908/3.

<sup>27</sup> *Ibid.*, No. 1908/13.

<sup>28</sup> *Ibid.*, No. 1908/13, p. 755.

<sup>29</sup> *Ibid.*, No. 1907/3.

<sup>30</sup> *Ibid.*, No. 1908/18.

<sup>31</sup> *Ibid.*, Nos. 1909/6, 1909/7.

<sup>32</sup> *Ibid.*, No. 1907/5.

<sup>33</sup> *Ibid.*, No. 1909/8.

also signed the memorandum regarding the reconstruction of the Antung-Mukden Railway.

Having completed these agreements, the Powers entered into a new contest over other railway concessions which had as yet not been appropriated. The struggle during this second period centered around the trunk line running from Hankow westward to Szechuan and southward to Canton,—commonly known as the Hukuang Railway. In securing the loan from the Hongkong Colonial Government for the redemption of the Hankow-Canton Railway concession,<sup>34</sup> Viceroy Chang Chi-tung, in his letter of September 9, 1905, to the British Consul at Hankow (Mr. E. H. Fraser),<sup>35</sup> promised to give Great Britain the first option on the future loan or loans for the Hankow-Canton Railway. So in 1909, when the construction of the railway was decided upon, Chang Chi-tung approached the British and Chinese Corporation for a loan. During the negotiation, the British insisted on the Canton-Kowloon terms, while Viceroy Chang Chi-tung insisted on the Tientsin-Pukow terms which were much more favorable. As the British would not accept the Tientsin-Pukow terms, Chang Chi-tung broke off the negotiations and turned to a German syndicate and succeeded in signing a loan agreement. Thereupon the British charged him with breach of faith and claimed that the option was offered, not to any one British syndicate, but rather to the nation as a whole. Chang Chi-tung retorted that

<sup>34</sup> Rockhill, p. 273, Art. 17; MacMurray, No. 1905/7.

<sup>35</sup> *Ibid.*, No. 1905/9, p. 530.



since the British and Chinese Corporation, representing the British Railway enterprises in China, would not take the concession at Tientsin-Pukow terms, he was no longer bound by the original pledge, but was free to offer the concession to syndicates of other nationalities. Accusations and recriminations ensued. Finally the controversy was settled at the Berlin Conference of Bankers when the British capitalists agreed to combine with the French and Germans and extend the concession so as to include the Hankow-Szechuan Railway. It was agreed that the French and English would construct the Hankow-Canton line under a British engineer, while the Germans would construct the Hupeh Section of the Hankow-Szechuan line. The preliminary agreement with China was signed on June 6, 1909,<sup>86</sup> for a loan of £5,500,000 at Tientsin-Pukow terms.

Prior to the conclusion of the loan, the United States Government had already made representations to the Chinese Foreign Office reminding it of the assurance given to the American Legation in Peking in 1904, to the effect that in case China should be unable herself to provide funds necessary for the construction of the Hankow-Szechuan Railway, American and British capitalists would first be simultaneously notified, which the American Government regarded as an assurance of preference for the railway loan in question. On the eve of the conclusion of the agreement, that is, on June 5, 1909, the American Legation in Peking, under the direction of the Department of State, again made

<sup>86</sup> MacMurray, No. 1911/5, p. 889.



representations, basing the American claim on the letter from the Chinese Foreign Office to Minister Conger dated August 15, 1903,<sup>37</sup> and also a letter of Prince Ching to Minister Conger under date of July 18, 1904,<sup>38</sup> claiming that an American syndicate had been granted the right of participation in the Hankow-Szechuan Railway Loan together with the British capitalists.

This vigorous assertion of the American right, though based on the assurances of the Chinese Government of 1903 and 1904, was actuated mainly by the desire to uphold the Open Door principles of equal opportunity of trade and integrity of China.<sup>39</sup> It was deemed that inasmuch as the loan agreement did not give the United States the equality of opportunity which was implied by the assurances of 1903 and 1904, the American interests would lose the opportunity of equal participation in financing the railway loan in question and in supplying the materials and experts and enjoying other benefits accruing from the enterprise. As was declared by the Department of State, "the principle involved is that of equal opportunity."<sup>40</sup> Again, it was apprehended that the proposed hypothecation of Chinese internal revenues for a loan, in the flotation of which the United States was entitled to participate, would involve political considerations.

<sup>37</sup> *U. S. For. Rel.*, 1909, p. 155; MacMurray, No. 1911/5, p. 885.

<sup>38</sup> *U. S. For. Rel.*, 1909, p. 156; MacMurray, No. 1911/5, p. 885.

<sup>39</sup> Taft's Message, Dec. 7, 1909, *U. S. For. Rel.*, 1909, p. xviii.

<sup>40</sup> Acting Sec. of State to Amb. Reid, July 9, 1909, *Ibid.*, p. 169.

"While holding, therefore, that the assurance of 1904 of itself gives American capitalists rights equal to those granted British interests and superior to those claimed by others, the fact that the loan is to be secured on likin revenues makes it of the greatest importance that the United States should participate therein in order that this Government, owing to its lien on the provincial revenues, may be in a position to exercise an influence equal to that of the other three powers in any question arising through the pledging of these levies and to enable the United States, moreover, at the proper time, again to support China in her endeavor in securing the abolition of likin and the increase of the customs tariff."<sup>41</sup>

The three banks interested were willing to allow Americans only one-fourth of the loan for the Hupeh Section of the Hankow-Szechuan Railway, while the United States insisted on one-fourth of the loan covering not only the Hankow-Szechuan line but also the Hankow-Canton concession.<sup>42</sup> Secretary Knox, chagrined, deplored the situation as permitting willful individuals to defeat the application of the Open Door Doctrine:

"... it seems that individuals in China or elsewhere are able to defeat the practical operations of the policy of the open door and equal opportunity, and if the objections of bankers of other countries to equal American participation are so insistent as not to be overcome by the wishes of China and their own Governments, the time has arrived when China should exercise its right to determine the matter by confining her dealings to those who are willing to respect her highest interests."<sup>43</sup>

<sup>41</sup> Sec. of State to Chargé Fletcher, June 12, 1909, *U. S. For. Rel.*, 1909, p. 160.

<sup>42</sup> Prince Ching to Chargé Fletcher, *Ibid.*, p. 177.

<sup>43</sup> Sec. of State to Chargé Fletcher, July 15, 1909, *Ibid.*, p. 179.

Meanwhile, on July 15, 1909, President Taft resorted to the unusual procedure of dispatching a direct personal cablegram to Prince Chun, Regent of the Chinese Empire, urging the latter to accord to the United States the right of equal participation:

"I am disturbed at the reports that there is certain prejudiced opposition to your Government's arranging for equal participation by American capital in the present railway loan. To your wise judgment it will of course be clear that the wishes of the United States are based, not only upon China's promises of 1903 and 1904, confirmed last month, but also upon broad national and impersonal principle of equity and good policy in which a regard for the best interests of your country has a prominent part. . . . I have an intense personal interest in making the use of American capital in the development of China an instrument for the promotion of the welfare of China, and an increase in her material prosperity without entanglements or creating embarrassments affecting the growth of her independent political power and the preservation of her territorial integrity." <sup>44</sup>

Finally, after a delay of further exchanges of views, American participation was admitted on an equal basis. The American bankers were to take one-fourth of the loan, and Americans and American materials were to have the same rights, privileges, preferences, and discretions for present and prospective lines as were reserved to the British, German, and French nationals and materials under the terms of the original agreement, except the right to appoint chief engineers for the two sections about to be placed under contract. Regarding the last point, China pledged that Ameri-

<sup>44</sup> *U. S. For. Rel.*, 1909, p. 178.

can engineers would be employed in the engineering corps of both roads and that the waiving of America's rights to chief engineers would not prejudice her rights in that respect, when future extensions should be built. To accommodate the equal participation of the United States, the loan was increased from £5,500,000 to £6,000,000 to be shared equally by the four Powers. On May 23, 1910, the banking groups of the Powers entered into an agreement in the conference of the representatives at Paris, and on May 20, 1911, they signed their final agreement with China, known as the Hukuang Railway Loan.<sup>45</sup>

Just as the first general scramble for leases and concessions in 1898 called forth John Hay's first circular note of September 6, 1899, so this second international struggle for concessions, ending in the consummation of the Hukuang Loan Agreement, called forth the neutralization plan of Secretary Knox. Realizing the impracticability of applying the Open Door principle of equal opportunity to railways in China under the régime of international struggle for concessions, and having learned that the American and British interests had jointly obtained the concession of the Chinchow-Aigun Railway in Manchuria,<sup>46</sup> also being aware of the fact that certain officials of the Chinese Eastern Railway had made overtures to the Chinese Government to purchase the line themselves or by an

<sup>45</sup> *U. S. For. Rel.*, 1910, p. 280; MacMurray, No. 1911/5.

<sup>46</sup> *U. S. For. Rel.*, 1910, p. 231.

<sup>47</sup> Memorandum to Russian Embassy, Feb. 8, 1910, *Ibid.*, p. 258.

international syndicate,<sup>47</sup> and being especially anxious to establish the reign of the Open Door Doctrine in Manchuria,—a region whence reports had come lately as to the gradual closing of the doors thereof,—Secretary Knox conceived the idea that with the Chinchow-Aigun concession as a basis, the Manchurian Railways could be commercially neutralized by means of an international loan enabling China to redeem those lines under the control of Japan and Russia, and to construct new lines in that region, with the ownership vested in the Chinese Government and yet under the control and management of the representatives of the Powers interested. As an alternative, he also suggested that the Powers interested should jointly finance the Chinchow-Aigun concession and other railways in Manchuria and furnish money to the Chinese Government to redeem the existing railways under the Japanese and Russian control, which would practically approximate the same desired object, if not actually attain it. His object in advocating this proposal was to alleviate the terrible international struggle for concessions, and to obtain a practical application of the principles of the Open Door Doctrine to the railway situation in China. These measures constituted the most effective way of asserting the doctrine.

On November 6, 1909, he dispatched a memorandum to the British Foreign Office, meanwhile forwarding the same to the American Embassies in St. Petersburg, Paris, and Berlin for their information. Upon the receipt of the British approval of the



general principle involved, though with some relevant suggestions,<sup>48</sup> he directed the American representatives in Peking, Paris, Berlin, St. Petersburg and Tokio, on December 14, 1909, to bring the contents of his memorandum to the attention of the several Governments concerned.<sup>49</sup> His memorandum follows:

"Now that there has been signed and ratified by an unpublished imperial decree an agreement by which the American and British interests are to coöperate in the financing and construction of the Chinchow-Tsitsihar-Aigun Railroad, the Government of the United States is prepared cordially to coöperate with His Britannic Majesty's Government in diplomatically supporting and facilitating this enterprise, so important alike to the progress and to the commercial development of China. The Government of the United States would be disposed to favor ultimate participation to a proper extent on the part of other interested powers whose inclusion might be agreeable to China and which are known to support the principle of equality of commercial opportunity and the maintenance of the integrity of the Chinese Empire. However, before the further elaboration of the actual arrangement, the Government of the United States asks His Britannic Majesty's Government to give their consideration to the following alternative and more comprehensive projects: First, perhaps the most effective way to preserve the undisturbed enjoyment by China of all political rights in Manchuria and to promote the development of those Provinces under a practical application of the policy of the open door and equal commercial opportunity would be to bring the Manchurian highways, the railroads, under an economic, scientific, and impartial administration by some plan vesting in China the ownership of the railroads through funds furnished

<sup>48</sup> E. Grey to Amb. Reid, Nov. 25, 1909, enclosed in Reid's letter to Sec. of State, Nov. 26, 1909, *U. S. For. Rel.*, 1910, pp. 235-236.

<sup>49</sup> Sec. of State to Amb. O'Brien, Dec. 14, 1909, *Ibid.*, p. 236. Same sent to Peking, Paris, Berlin and St. Petersburg.



for that purpose by the interested powers willing to participate. Such loan should be for a period ample to make it reasonably certain that it could be met within the time fixed and should be upon such terms as would make it attractive to bankers and investors. The plan should provide that nationals of the participating powers should supervise the railroad system during the term of the loan and the governments concerned should enjoy for such period the usual preferences for their nationals and materials upon an equitable basis *inter se*. The execution of such a plan would naturally require the coöperation of China and of Japan and Russia, the reversionary and the concessionaries, respectively, of the existing Manchurian railroads, as well as that of Great Britain and the United States, whose special interests rest upon the existing contract relative to the Chinchow-Aigun Railroad. The advantages of such a plan to Japan and to Russia are obvious. Both those powers, desiring in good faith to protect the policy of the open door and equal opportunity in Manchuria and wishing to assure to China unimpaired sovereignty, might well be expected to welcome an opportunity to shift the separate duties, responsibilities, and expenses they have undertaken in the protection of their respective commercial and other interests, for impartial assumption by the combined powers, including themselves, in proportion to their interests. The Government of the United States has some reason to hope that such a plan might meet favorable consideration on the part of Russia and has reason to believe that American financial participation would be forthcoming. Second, should this suggestion not be found feasible in its entirety, then the desired end would be approximated, if not attained, by Great Britain and the United States diplomatically supporting the Chinchow-Aigun arrangement and inviting the interested powers friendly to complete commercial neutralization of Manchuria to participate in the financing and construction of that line and of such additional lines as future commercial development may demand, and at the same time to supply funds for the purchase by China of such of the existing lines as might be offered for

inclusion in this system. The Government of the United States hopes that the principle involved in the foregoing suggestions may commend itself to His Britannic Majesty's Government. That principle finds support in the additional reasons that the consummation of some such plan would avoid the irritations likely to be engendered by the uncontrolled direct negotiations of bankers with the Chinese Government, and also that it would create such a community of substantial interest in China as would facilitate a coöperation calculated to simplify the problems of fiscal and monetary reforms now receiving such earnest attention by the Imperial Chinese Government."<sup>50</sup>

The statesmanlike purpose of Secretary Knox to render the Open Door Doctrine effective in China, particularly in Manchuria, through the commercial neutralization of the Manchurian railways, is demonstrated by the statement given to the press on January 6, 1910, pointing out that the real purpose of the plan was the effective maintenance of the Open Door Doctrine, contributing alike to the welfare of China and to that of the Powers. The statement explains the purpose of the neutralization plan so well that parts of it are reproduced here:

"This Government pointed out that the greatest danger at present in China to the open door and the development of foreign trade arose from disagreements among the great western nations, and expressed the opinion that nothing would afford so impressive an object lesson to China and the world as the sight of the four great capitalist nations—Great Britain, Germany, France, and the United States—standing together for equality of commercial opportunity. . . .

"There were, however, stronger reasons and broader grounds. In fact, the action of the Government in respect to the pending

<sup>50</sup> *U. S. For. Rel.*, 1910, pp. 234-235.

loan was but the first step in a new phase of the traditional policy of the United States in China and with special reference to Manchuria. As is well known, the essential principles of the Hay policy of the open door are the preservation of the territorial and jurisdictional integrity of the Chinese Empire and equal commercial opportunity in China for all nations. This Government believes that one of the most effective, if not the most effective, way to secure for China the undisturbed enjoyment of all political rights in Manchuria and to promote the normal development of the eastern provinces under the policy of the open door practically applied would be to take the railroads of Manchuria out of eastern politics and place them under an economic and impartial administration by vesting in China the ownership of its railroads; the funds for that purpose to be furnished by the nationals of such interested powers as might be willing to participate and who are pledged to the policy of the open door and equal opportunity, the powers participating to operate the railway system during the period of the loan and enjoy the usual preferences in supplying materials.

"Such a policy would naturally require for its execution the cooperation not only of China, but also of Japan and of Russia, who already have extensive railway rights in Manchuria. The advantages of such a plan are obvious. It would insure unimpaired Chinese sovereignty, the commercial and industrial development of the Manchurian provinces, and furnish a substantial reason for the early solution of the problems of fiscal and monetary reform which are now receiving such earnest attention by the Chinese Government. It would afford an opportunity for both Russia and Japan to shift their onerous duties, responsibilities, and expenses in connection with these railways to the shoulders of the combined powers, including themselves. Such a policy, moreover, would effect a complete commercial neutralization of Manchuria, and in so doing make a large contribution to the peace of the world by converting the provinces of Manchuria into an immense commercial neutral zone."<sup>51</sup>

<sup>51</sup> *U. S. For. Rel.*, 1910, pp. 243-245.

In response to the neutralization proposal of Secretary Knox, the British Foreign Office replied:

"The general principle involved in the first of your excellency's two suggestions entirely commends itself to His Majesty's Government so far as the preservation of the open-door policy and equal commercial opportunity are concerned, and would in their opinion be well adapted to securing to China full control in Manchuria."

It, however, suggested that in view of the pending negotiation for the Hukuang Loan, it would be advisable to postpone the consideration of another international loan for China's railway undertakings. As regards the alternative proposal, the British Foreign Office further suggested that

"as a preliminary step toward attaining this desirable end the two Governments shall unite in endeavoring to persuade the Chinese Government to admit the Japanese to participation in the Chinchow-Aigun line, as being the parties most interested."<sup>52</sup>

China responded with a full approval of the general principle of the American project.<sup>53</sup> Germany likewise expressed concurrence to the general principles of the plan.<sup>54</sup>

The Russian Government, however, rejected the neutralization plan of Knox.<sup>55</sup> It contended that the

<sup>52</sup> Grey to Amb. Reid, Nov. 25, 1909, *U. S. For. Rel.*, 1910, pp. 235-236.

<sup>53</sup> Chargé Fletcher to Sec. of State, Dec. 23, 1909, *Ibid.*, p. 240.

<sup>54</sup> Amb. Hill to Sec. of State, Dec. 24, 1909, *Ibid.*, p. 240; note verbale and memorandum enclosed in Hill's letter, Feb. 23, 1910, *Ibid.*, p. 261.

<sup>55</sup> Aide-mémoire enclosed in Rockhill's letter, Jan. 22, 1910, *Ibid.*, pp. 248-250. Cf. Siebert and Schreiner, *Entente Diplomacy and the World*, pp. 3-43. The neutralization plan was called "the notorious American project"—Russian Amb. at Tokio to Iswolsky, Dec. 31, 1909/Jan. 13, 1910.



new project would extinguish the valuable rights and privileges Russia had in the Chinese Eastern Railway Company, which she was reluctant to forego, unless and until China should redeem the whole enterprise after a designated period. It further contended that the new plan would seriously jeopardize other enterprises which had grown up with the Russian railways in North Manchuria. It finally pointed out that, inasmuch as the Chinese Eastern Railway formed an integral part of the Trans-Siberian Railway system, being the most important artery of connection between European Russia and Eastern Siberia, she could not permit that line to fall under the control of an international administration. As to the American plan regarding the Chinchow-Aigun Railway, inasmuch as it would affect the interests of the Chinese Eastern Railway, and also open up a new route from the south not only to the Chinese Eastern Railway but also to the Russian possessions at Aigun, the Russian Government asked for further enlightenment as to the basis of the proposition so as to reach a conclusion thereon.

Likewise, the Japanese Government rejected the Knox proposal. It maintained that the new proposal contemplated a most serious departure from the arrangement of the Treaty of Portsmouth, subsequently confirmed by the Chinese Government. It further questioned the wisdom of substituting international administration of railways for national or private administration.

"Finally, in the matter of railway administration, it is impossible for the Imperial Government to believe that the sub-

stitution of an international in place of a national régime would prove advantageous or beneficial. On the contrary, it seems to them that in the presence of such a system economy and efficiency would, in the nature of things, be obliged to yield to political exigencies and that the divided responsibility of the system would inevitably mean an absence of due responsibility, to the serious disadvantage of the public and the detriment of the service.”<sup>56</sup>

As to the Chinchow-Aigun concession, it indicated its willingness in principle to participate in the enterprise.

Lastly, France also rejected the first alternative of the American proposal, unless Russia and Japan should concur. As to the Chinchow-Aigun concession, while expressing willingness to participate, she nevertheless conditioned her acceptance upon the concurrence of Japan and Russia, the Powers most interested, “in case these should consider definitely that the question of the construction of the Chinchow-Aigun line can rest solely upon a business basis, without provoking political, strategic, or economic repercussions contrary to the rights which they hold by treaty.”<sup>57</sup>

Thus failed the Knox Neutralization Plan, because of the lack of coöperation from Russia and Japan.

Meanwhile, however, another instance had arisen which afforded an opportunity to practice the doctrine of equal opportunity, namely, the Currency Reform and Manchuria Industrial Development Loan. This loan was initiated by the Chinese Government to carry out the currency reform as promised to Great

<sup>56</sup> Komura to Amb. O'Brien, Jan. 21, 1910, *U. S. For. Rel.*, 1910, p. 251.

<sup>57</sup> Amb. Bacon to Sec. of State, Feb. 4, 1910, *Ibid.*, p. 256.



Britain, Japan and the United States in the commercial treaties of 1902 and 1903. It was first offered exclusively to the American Government. The preliminary agreement for a loan of \$50,000,000 was signed by the American Banking Group on October 27, 1910.<sup>58</sup> The United States Government, however, deemed that such a gigantic undertaking as the currency reform and the industrial development of Manchuria would need the sympathetic coöperation of the Powers interested, and should be shared by all alike. So out of good-will and conscientious regard for the principle of equal opportunity, the United States welcomed the cordial support of the Powers and extended participation to them.<sup>59</sup> As a consequence, France, Germany, Great Britain and the United States, through their respective financial agencies, signed the agreement on April 15, 1911, for a loan of £10,000,000.<sup>60</sup>

Meanwhile, just as the first general scramble of 1898 for leases and concessions brought to pass the Chinese Boxer Uprising, so the second struggle for concessions, 1908-1911, brought about the Chinese Revolution of 1911. The spirit of Chinese nationalism had been stirred to its depths by the Japanese victory over Russia in 1905, and the people could no longer endure the international rivalries at their expense. Learning a lesson from the painful experi-

<sup>58</sup> MacMurray, No. 1911/2, p. 851.

<sup>59</sup> Acting Sec. of State to Am. Amb. to France, *U. S. For. Rel.*, 1912, pp. 91-92. Same to Embassies at London, Berlin, St. Petersburg and Tokio.

<sup>60</sup> MacMurray, No. 1911/2. On account of the revolution of 1911 the loan was not floated, although a small advance was delivered, *Ibid.*, p. 851.

ence of the Boxer Uprising, in 1900, when blinded fury led the Northern Chinese to fanatical attempts to expel all foreigners, this time the Chinese people wisely turned their resentment against the true source of their weakness, the Manchu Dynasty. Realizing that Japan had forged her way to the fore through the establishment of a strong and efficient Government, the Chinese also believed that by taking the reins of their Government from the feeble hands of the Manchus, they could erect a Government of their own which would shelter them henceforth from the onslaughts of the West.

With this deep conviction, they waited for the moment to strike. When the resumption of the international struggle for concessions manifested itself again in the Hukuang Loan negotiations, the people, inspired by their newly aroused nationalism, determined to put a stop to this spoliation of their sovereign rights and wreckage of their heritage. The gentries of the provinces affected—Hupeh, Hunan, and Szechuan—made a counter-move and started a campaign for the construction of the Hukuang Railways by the people themselves. To this end they raised large sums of capital and actually commenced to construct the lines. The conclusion of the Hukuang Loan in May, 1911, however, dashed to pieces their hopes and efforts, and imperiled their investments in the railways. The explosion of a bomb in Wuchang on October 10, 1911, brought the situation to a head and heralded the advent of the Chinese Revolution, which resulted in the overthrow of the Manchu Dynasty and the establishment of the Chinese Republic.

## CHAPTER IV

### THE BREAKDOWN AND THE REASSERTION OF THE DOCTRINE

AFTER the Chinese Revolution, the policy of the Great Powers took a radical change. Instead of struggle and rivalry, they adopted a common policy of international coöperation and, in some cases, control. As the Open Door Doctrine is an expression of policy toward conditions in China as related to American interests and destiny, the policy of the United States likewise assumed a new aspect and accepted the common practice of international coöperation.

This radical change of policies on the part of the Powers was due mainly to two reasons. The first was the unavoidable disadvantage of international cut-throat competition. It is a well known principle in economic science that such competition leads inevitably to either mutual destruction or to coöperation and combination. In the field of international politics, the same law holds true. International cut-throat competition must inevitably result either in mutual destruction of purpose or in international combination and coöperation. For instance, as we have seen, in the case of the Peking-Hankow Railway, the British, American and Belgian capitalists were all competitors.

The British were especially anxious to win the premier concession, passing as it does from the capital of China to the heart of the Yangtze Valley; but the Belgian capitalists, supported by Russia and France, underbid the other and won the concession. Again, in the case of the Hankow-Canton Railway, the British capitalists, although holding a prior option by virtue of the pledge of Viceroy Chang Chi-tung, were defeated by German capitalists, who were willing to accept the concession on the Tientsin-Pukow terms, which the British had rejected. It was because of unfortunate experiences of this kind that the Powers began to realize the inexpediency of international competition and to favor the policy of international combination and coöperation.

However, there was another cause for the radical change of the policy of the Powers in China, and that was the possible occurrence of foreign control of China's finance. In the preceding period there had been a few foreign loans made for the immediate payment of the war indemnity to Japan, but there were practically no loans made of an administrative character, most of them being mainly for railway construction and other commercial purposes. But with the advent of the Republic, and the falling off of provincial revenues, which were either diverted to provincial uses or failed to reach Peking on account of the relatively independent position of the military governors in control of the provinces, the Peking Government was forced to resort to administrative loans for the purpose of meeting the ordinary non-productive needs of

the Government. With the coming of administrative loans, there loomed the ghastly apparition of possible or even probable bankruptcy, and hence there arose the possible eventuality of foreign control of China's finance. As no one Power would allow any other single Power to have the exclusive financial control, the Powers were compelled to reach the conclusion that they must combine and coöperate, so that, in case the necessity for foreign control of China's finance should arise, it would be an international control rather than control by any single Power.

The instrument through which this policy was to be carried out was the old consortium. It had been formed in 1910, when the French, German, British and American banking groups signed a quadruple agreement at a conference in London, November 8-10, undertaking joint action for carrying on Chinese loans.<sup>1</sup> The same consortium concluded the Hukuang Railway Loan of May 20, 1911,<sup>2</sup> and also the Currency Reform and Manchurian Industrial Development Loan of April 15, 1911.<sup>3</sup> To this quadruple consortium were subsequently added Russia and Japan.<sup>4</sup> The working agreement of the sextuple consortium was signed on June 18, 1912,<sup>5</sup> at the Interbank Conference of Paris, setting forth the principle of equal participation on the basis of complete equality.

<sup>1</sup> *U. S. For. Rel.*, 1912, p. 92.

<sup>2</sup> MacMurray, No. 1911/5.

<sup>3</sup> *Ibid.*, No. 1911/2.

<sup>4</sup> Am. Amb. to Japan to Sec. of State, March 18, 1912, Russian aide mémoire, April 6, 1912, quoted in letter of Acting Sec. of State to Am. Min. to China, April 8, 1912, *U. S. For. Rel.*, 1912, pp. 114, 124.

<sup>5</sup> MacMurray, No. 1913/5, p. 1021.



The first problem the consortium had to deal with was the reorganization loan of £25,000,000. Shortly after his assumption of office, Yuan Shi Kai, then Provisional President of China, had commenced the negotiations for the loan. On receiving a preliminary advance for administrative purposes, he had promised the quadruple group, in a note of March 9, 1912,<sup>6</sup> that he would give them first option on further monthly requirements and, provided their terms were as advantageous as those of other bankers, on the proposed reorganization loan. Contrary to this pledge, and under the pressure of immediate needs, the Provisional Premier contracted a small Belgian loan of £1,000,000 on March 14, 1912,<sup>7</sup> for which service preference was given for such loan or loans as would aggregate the sum of ten million pounds sterling to be floated through the bank concerned, provided the terms offered should be equally advantageous as those offered by other parties (Art. XV). The conclusion of this loan called forth a stormy protest from the quadruple group.<sup>8</sup> On March 25, 1912, the Ministers of France, Germany, Great Britain and the United States, called on Yuan Shi Kai and entered a protest against this breach of contract.<sup>9</sup> As a consequence, the Chinese Government undertook to cancel the Belgian

<sup>6</sup> *U. S. For. Rel.*, 1912, pp. 113, 120; MacMurray No. 1911/2, p. 852.

<sup>7</sup> Am. Min. to Sec. of State, March 16, 1912, *U. S. For. Rel.*, 1912, p. 113; MacMurray, No. 1912/4.

<sup>8</sup> Acting Sec. of State to Am. Min., March 19, 1912, Am. Amb. to Great Britain to Sec. of State, March 21, Am. Amb. to Germany to Sec. of State, March 21, *U. S. For. Rel.*, 1912, pp. 115, 116, 121.

<sup>9</sup> Am. Min. to Sec. of State, March 29, 1912, Ministers of the Four Powers to the Foreign Office, April 18, *Ibid.*, pp. 122, 125.



loan.<sup>10</sup> Thereupon, the negotiations for the reorganization loan were resumed with the sextuple group.<sup>11</sup>

During the negotiations, it was soon discovered that the Powers concerned aimed to secure the supervision of China's finance.<sup>12</sup> As a consequence of the Interbank Conference of London,<sup>13</sup> the Powers demanded the foreign administration of the revenues pledged as security, the supervision of the expenditure of funds, the specification of the purposes and use of the advances, and the abstention of the Chinese Government from making loans with other parties pending the issuance of the reorganization loan. To these proposals, the Chinese Government refused to give its consent, objecting particularly to the foreign supervision over expenditures and the disbandment of troops.<sup>14</sup> A deadlock ensued.<sup>15</sup>

Impelled once more by urgent needs, China again turned to other sources for temporary relief. This time she concluded, on August 30, 1912, with an independent British syndicate (G. Birch Crisp & Co.)<sup>16</sup> a loan of £10,000,000, for which preference was again given for future loans to be contracted before the realization of this loan, provided the terms were

<sup>10</sup> Am. Min. to Sec. of State, April 27, 1912, the Premier, Acting Minister for Foreign Affairs, and Acting Minister for Finance to Ministers of the Four Powers, April 27, *U. S. For. Rel.*, 1912, pp. 124, 126.

<sup>11</sup> Am. Min. to Sec. of State, April 27, 1912, *Ibid.*, p. 124.

<sup>12</sup> For a full account see F. H. Huang, *Public Debts in China*, chap. 5.

<sup>13</sup> Draft telegram of May 15, 1912, Interbank London Conference, as amended and adopted June 20, *U. S. For. Rel.*, 1912, p. 141.

<sup>14</sup> Chinese Min. to Sec. of State, May 25, 27, 1912, *Ibid.*, pp. 133, 134.

<sup>15</sup> Am. Min. to Sec. of State, June 24, July 2, 9, 1912, *Ibid.*, pp. 142, 144, 145.

<sup>16</sup> MacMurray, No. 1912/9; *China Year Book*, 1913, pp. 359-364.

equally advantageous as those otherwise obtainable (Art. XIV). The conclusion of this loan, commonly called the Crisp Loan, called forth a second protest from the Powers.<sup>17</sup> In consequence, the privilege of preference was withdrawn and the issue of the second half of the loan was cancelled at a compensation of £150,000.<sup>18</sup>

Thereafter, negotiations with the Powers were again resumed. By the end of January, 1913, the agreement was almost ready for signature. At this juncture, France and Russia made objections to the appointment of the foreign advisers suggested by China.<sup>19</sup> A shameless wrangle followed. The controversy was finally settled by the agreement to have a Britisher as Inspector of the Salt Administration, a German as Director of the National Loan Department, and two advisers, one French and the other Russian, for the Auditing Bureau.<sup>20</sup> The final agreement was signed on April 26, 1913.<sup>21</sup>

Throughout the negotiations for the reorganization loan until the end of the Taft Administration, the policy of the United States was one of international coöperation and concerted action with the interested Powers. In fact, this was the distinctive feature of the Taft Administration in relation to the Open Door

<sup>17</sup> *U. S. For. Rel.*, 1912, p. 153.

<sup>18</sup> *China Year Book*, 1914, p. 379.

<sup>19</sup> Am. Amb. to France to Sec. of State, Feb. 14, 1913, enc. the French aide mémoire, Am. Amb. to Russia to Sec. of State, Feb. 15, enc. the Russian aide mémoire, *U. S. For. Rel.*, 1913, pp. 157, 158.

<sup>20</sup> Am. Chargé in China to Sec. of State, May 6, 1913, *Ibid.*, p. 180.

<sup>21</sup> MacMurray, No. 1913/5; Chargé Williams to Sec. Bryan, April 27, 1913, May 6, *U. S. For. Rel.*, 1913, pp. 179, 180.

Doctrine. In his annual message to Congress, December 3, 1912, President Taft said:

"The principle of international coöperation in matters of common interest upon which our policy had already been based . . . has admittedly been a great factor in that concert of the powers which has been so happily conspicuous during the perilous period of transition through which the great Chinese nation has been passing." <sup>22</sup>

It was seriously apprehended, however, that the reckless borrowing of administrative and political loans and the extravagant expenditure thereof might lead China to bankruptcy and consequent foreign intervention and control of China's finance, which would be contrary to the spirit of the Open Door Doctrine. As has been well said,

" . . . if the Provisional Government is permitted to borrow money here and there and everywhere without check or control, there can be but one result and that an early one—national bankruptcy. There may be those who would not be sorry to see such a condition brought about, because it would compel foreign intervention, but the policy consistently advocated by our own Government rather demands the adoption of measures which will tend to save the Chinese Government from itself, prevent foolish borrowing and reckless expenditure, and assist it to maintain its credit and build up prosperity upon a solid foundation." <sup>23</sup>

Hence, the United States Government, together with the other Governments, was compelled to adopt measures to supervise the expenditures of the proceeds

<sup>22</sup> *U. S. For. Rel.*, 1912, p. xii.

<sup>23</sup> Min. to China to Sec. of State, March 21, 1912, *Ibid.*, p. 119.

and to obtain the proper auditing and accounting of the loans.<sup>24</sup>

Outlining this policy, the Acting Secretary of State said:

"The Department attaches the highest importance to the broad principle of international coöperation and concerted action; in pursuance of a policy harmonious with that principle and looking to the best interests equally of China and the other powers, the Department believes China must adopt adequate measures of supervision and control; in the Department's opinion the work of the six-power groups is a most valuable factor in the application of that policy and in connection with those measures; . . ." <sup>25</sup>

Nevertheless, when the Wilson Administration came into power, the policy of the United States was radically changed. Instead of participation and coöperation, it took the form of withdrawal and non-intervention. Instead of supervision and control, it advocated the preservation of the unassailed status of the administrative integrity of China. On the inquiry of the American Banking Group as to the wishes of the Government in regard to the future conduct of the loan negotiations,<sup>26</sup> President Wilson issued a statement to the press on March 18, 1913, declaring that inasmuch as the terms of the reorganization loan touched the administrative integrity of China, the United States could not become a party thereto.

"The conditions of the loan seem to us to touch very nearly the administrative independence of China itself, and this ad-

<sup>24</sup> Sec. Knox to Am. Min., July 2, 1912, *U. S. For. Rel.*, 1912, p. 145.

<sup>25</sup> Act. Sec. of State to Am. Min., Sept. 26, 1912, *Ibid.*, p. 152.

<sup>26</sup> Mr. Straight to Sec. Bryan, March 5, 1913, *Ibid.*, 1913, p. 167.

ministration does not feel that it ought, even by implication, to be a party to those conditions. The responsibility on its part which would be implied in requesting the bankers to undertake the loan might conceivably go the length in some unhappy contingency of forcible interference in the financial, and even the political, affairs of that great oriental State, just now awakening to a consciousness of its power and of its obligations to its people. The conditions include not only the pledging of particular taxes, some of them antiquated and burdensome, to secure the loan, but also the administration of those taxes by foreign agents. The responsibility on the part of our Government implied in the encouragement of a loan thus secured and administered is plain enough and is obnoxious to the principles upon which the government of our people rests.

"The Government of the United States is not only willing, but earnestly desirous, of aiding the great Chinese people in every way that is consistent with their untrammelled development and its own immemorial principles. The awakening of the people of China to a consciousness of their responsibilities under free government is the most significant, if not the most momentous, event of our generation. With this movement and aspiration the American people are in profound sympathy. They certainly wish to participate, and participate very generously, in the opening to the Chinese and to the use of the world the almost untouched and perhaps unrivaled resources of China.

"The Government of the United States is earnestly desirous of promoting the most extended and intimate trade relationship between this country and the Chinese Republic. The present administration will urge and support the legislative measures necessary to give American merchants, manufacturers, contractors, and engineers the banking and other financial facilities which they now lack and without which they are at a serious disadvantage as compared with their industrial and commercial rivals. This is its duty. This is the main material interest of its citizens in the development of China. Our interests are



those of the open door—a door of friendship and mutual advantage. This is the only door we care to enter.”<sup>27</sup>

Consequently, the American Group withdrew from the sextuple consortium.<sup>28</sup>

Thus, it will be seen that both the Taft and Wilson Administrations attempted to preserve the administrative integrity of China which was menaced by the terms of the reorganization loan. The Taft Administration adopted the policy of participation, thereby to uphold China's integrity and American rights and interests. The Wilson Administration, on the other hand, attempted to preserve the same administrative integrity of China by the policy of non-participation and aloofness. The purpose and aims of both administrations were alike, but the policies radically different.

In the light, however, of subsequent occurrences in the history of the Open Door Doctrine, it is to be observed that Wilson's policy of non-participation and aloofness, though well intentioned, proved, in practical experience, to be the cause of the breakdown of the Open Door policy in China. With the loss of the United States as a moral leader among the Powers, and the abandonment of the policy of international co-operation and concerted action, so splendidly inaugurated under the Taft Administration, the Powers reverted to their old practices, repeating the dreadful scenes of 1898 and 1908.

In pursuance of the old policy of competition, the Powers again contended for concessions. On Septem-

<sup>27</sup> *U. S. For. Rel.*, 1913, p. 170; transmitted by Acting Sec. of State to Paris, London, Berlin, St. Petersburg, Tokio and Peking on March 19, 1913.

<sup>28</sup> Mr. Straight to Sec. Bryan, March 19, 1913, *Ibid.*, p. 171.



ber 24, 1912, the Belgian Company, Compagnie Générale de Chemins de Fer et de Tramways en Chine, secured the concession of the Lung-Tsing-U-Hai Railway.<sup>29</sup> On December 12, 1912, the supplementary clause was signed,<sup>30</sup> and on May 1, 1920, another subsequent agreement for the loan was entered at Brussels.<sup>31</sup> On July 22, 1913, Belgium and France, through their respective financial agencies, jointly obtained the concession of the Tatung-Chengtu line.<sup>32</sup> France procured on October 9, 1913, the five per cent Industrial Gold Loan of 1914,<sup>33</sup> in addition to the contract for the Ching-Yu Railway on January 21, 1914,<sup>34</sup> and on September 26, 1914, the pledge of the Chinese Foreign Office regarding preference to French nationals in railway and mining enterprises in Kwangsi Province.<sup>35</sup> Germany acquired, by an exchange of notes on December 31, 1913,<sup>36</sup> the right of extending the Shantung Railway from Kaomi to Hanchuang and from Tsinan to Shunteh.<sup>37</sup>

Participating in the general scramble, Great Britain obtained on November 14, 1913,<sup>38</sup> the contract for the Pukow-Sinyang Railway; on December 18, 1913, the preliminary agreements for the Shasi-Shingyi Rail-

<sup>29</sup> MacMurray, No. 1912/11.

<sup>30</sup> *Ibid.*, p. 990.

<sup>31</sup> *Far Eastern Review*, Jan. 1921, Vol. 17, pp. 31-33.

<sup>32</sup> MacMurray, No. 1913/8.

<sup>33</sup> *Ibid.*, No. 1913/10.

<sup>34</sup> *Ibid.*, No. 1914/2.

<sup>35</sup> *Ibid.*, No. 1895/5, p. 34.

<sup>36</sup> *Ibid.*, No. 1913/16.

<sup>37</sup> It is to be observed here in this connection that later, on September 24, 1918, Japan secured the concession of these two railways, changing, however, Hanchuang to Hsuchowfu.

<sup>38</sup> *Ibid.*, No. 1913/12.

way;<sup>39</sup> and on July 25, 1914, the final agreement for the same.<sup>40</sup> On March 31, 1914, she also obtained the Nanking-Hunan Railway Agreement,<sup>41</sup> and on August 24, 1914, the Nanchang-Chaochow Concession.<sup>42</sup> The United States financial agents also obtained concessions. The American International Corporation secured, on May 13, 1916, the agreement for the Huai River Conservancy Grand Canal Improvement Loan.<sup>43</sup> Siems and Carey obtained, on May 17, 1916,<sup>44</sup> the concession to construct 1,500 miles of railways in China, which was later reduced by the supplementary agreement of September 29, 1916, to an aggregate of 1,100 miles.<sup>45</sup>

Likewise, Japan wrested many valuable concessions from China. By an exchange of notes, on October 5, 1913,<sup>46</sup> she secured the concession from Supingkai via Chengchiatun to Taonanfu, from Kaiyuan to Hailungcheng and from Changchun to Taonanfu. By the treaty of 1915 relating to the Province of Shantung, she also procured the right to construct a railway from Chefoo or Lungkow to a point on the Kiaochow-Tsinan Railway. The *Japan Advertiser* of October 2, 1918,<sup>47</sup> announced additional railway loans in Manchuria and Mongolia,—from Taonan to Jehol, from

<sup>39</sup> MacMurray, No. 1914/7, p. 1146.

<sup>40</sup> *Ibid.*, No. 1914/7.

<sup>41</sup> *Ibid.*, No. 1914/4.

<sup>42</sup> *Chino-Japanese Negotiations*, pub. by the Chinese Government, p. 11; *Peking Gazette*, May 14, 1915.

<sup>43</sup> MacMurray, No. 1916/6.

<sup>44</sup> *Ibid.*, No. 1916/7.

<sup>45</sup> *Ibid.*, p. 1321.

<sup>46</sup> *Ibid.*, No. 1913/9.

<sup>47</sup> *Ibid.*, p. 1054.

Changchun to Taonan, from Kirin to Kaiyuen via Hailung, and from a point on the Taonan-Jehol Railway to a seaport; and also the railway loans in Shantung,—the Tsinan-Shunteh and the Kaomi-Hsuchow, which were finally concluded on September 24, 1918.<sup>48</sup> Under the Terauchi Cabinet there were also concluded with China the Bank of Communications Loan,<sup>49</sup> the Telegraph Loan,<sup>50</sup> the Kirin-Hueining Railway Loan,<sup>51</sup> and a loan of 30,000,000 yen, with all the forests and gold mines in both Kirin and Heilungkiang Provinces for security.<sup>52</sup>

Russia was the only great Power during this period that was not much interested in the international struggle for concessions. The railway concession her financial institutions gained in this period was the Pin-hei Railway, acquired by the Russo-Asiatic Bank on March 27, 1916.<sup>53</sup> The interest of Russia rather lay in Mongolia.<sup>54</sup>

Thus the international struggle for concessions was revived after the withdrawal of the United States. In the midst of the heated contest, however, the World War broke out in 1914. This brought the struggle suddenly to a halt. Retiring from the arena of Far Eastern politics, the Powers turned their full attention to the death grapple in Europe, thereby relieving China temporarily from their aggressions.

<sup>48</sup> MacMurray, No. 1918/16.

<sup>49</sup> *Ibid.*, No. 1917/9.

<sup>50</sup> *Ibid.*, No. 1918/7.

<sup>51</sup> *Ibid.*, No. 1918/9.

<sup>52</sup> *Ibid.*, No. 1918/11.

<sup>53</sup> *Ibid.*, No. 1916/3.

<sup>54</sup> *Ibid.*, Nos. 1911/13, 1912/12, 1913/11, 1914/12, 1915/10.

This moment of alleviation, however, was not to last long. Left alone and untrammelled in the Far East, and with China lying unprotected and almost helpless, Japan took advantage of the situation. She realized that the opportunity of a thousand years had come, and she should avail herself of the golden opportunity to unfold her policy of continental expansion which she had been compelled to suppress ever since the Russo-Japanese War by the presence of the Western Powers.

Opportunely, the Black Dragon Society appeared. The Japanese Government was urged to solve the Chinese question at that moment. The said society formulated a plan of a defensive alliance with China based on the following conditions. Reading these terms in the light of the subsequent Twenty-one Demands, no impartial mind can remain unconvinced that they were the forerunners of the demands.<sup>55</sup>

"Now is the most opportune moment for Japan to quickly solve the Chinese Question. Such an opportunity will not occur for hundreds of years to come. Not only is it Japan's divine duty to act now, but present conditions in China favor the execution of such a plan. We should by all means decide and act at once. If our authorities do not avail themselves of this rare opportunity, great difficulties will surely be encountered in future in the settlement of this Chinese Question. Japan will be isolated from the European Powers after the war, and will be regarded by them with envy and jealousy just as Germany is now regarded. Is it not then a vital necessity for Japan to solve at this very moment the Chinese Question? . . .

"It is a very important matter of policy whether the Japanese Government, in obedience to its divine mission, shall solve the

<sup>55</sup> Putnam Weale, *Fight for the Republic in China*, p. 125.

Chinese Question in a heroic manner by making China voluntarily rely upon Japan. To force China to such a position there is nothing else for the Imperial Japanese Government to do but to take advantage of the present opportunity to seize the reins of political and financial power and to enter by all means into a defensive alliance . . .

"5. For the reorganization of the Chinese army China shall intrust the training and the drilling of her army to Japan.

"6. For the unification of China's firearms and munitions of war, China shall adopt firearms of Japanese pattern, and at the same time establish arsenals (with the help of Japan) in different strategic points.

"7. With the object of creating and maintaining a Chinese Navy, China shall intrust the training of her navy to Japan.

"8. With the object of reorganizing her finances and improving the methods of taxation, China shall entrust the work to Japan, and the latter shall elect competent financial experts who shall act as first-class advisers to the Chinese Government. . . .

"10. China shall first consult with and obtain the consent of Japan before she can enter into an agreement with another Power for making loans, the leasing of territory, or the cession of the same."<sup>56</sup>

Upon the urge of this memorandum, and seizing the opportunity offered by the World War, Japan dropped the mask, and disclosed her designs. Having captured Kiaochow from Germany, she presented, on January 18, 1915, the now celebrated Twenty-one Demands. The first group related to Shantung. Japan was to be granted a railway concession from Chefoo or Lungkow to join the Kiaochow-Tsinan Railway, and certain commercial ports in the province were to be opened, the non-alienation of the coast or territory of Shan-

<sup>56</sup> Putnam Weale, *Fight for the Republic in China*, pp. 128-131.



tung was to be pledged by China, and, above all, China was to assent to any arrangement Japan might make with Germany at the end of the war relating to the German rights in Shantung.<sup>57</sup> The second group dealt with South Manchuria and Eastern Inner Mongolia. Japan demanded the extension to ninety-nine years of the lease of Port Arthur and Dalny, and of the South Manchuria Railway and Antung-Mukden Railway; the transfer to Japan of the management and control of the Kirin-Changchun Railway for ninety-nine years; the right to lease and own land and to open mines and to engage in any business, manufacturing and farming; she also required the consent of the Japanese Government to the pledging of the local taxes as securities for any railway concession to a third Power, and for the employment of foreign advisers to serve as political, financial or military instructors in the areas specified.<sup>58</sup> The third group referred to the Hanyehping Company. Japan demanded joint partnership in the company and the monopoly by the said company of the mines located in the neighborhood of those owned by the company.<sup>59</sup> The fourth group treated of the non-alienation of the coast of China.<sup>60</sup> The fifth group, which was the climax, demanded the employment of influential Japanese advisers in Chinese political, financial and military affairs; the right to own land by the Japanese

<sup>57</sup> *Chino-Japanese Negotiations*, p. 19, from *Peking Gazette*, May 14, 1915.

<sup>58</sup> *Ibid.*, pp. 19-21.

<sup>59</sup> *Ibid.*, p. 21.

<sup>60</sup> *Ibid.*, p. 21.



hospitals, churches and schools in the interior of China; the joint administration by Japanese and Chinese of the police at important places in China; the purchase of a fixed amount of ammunition from Japan (say, fifty per cent or more), or the joint establishment of an arsenal in China; railway concessions from Wuchang to Kiuchang and Nanchang, from Nanchang to Hangchow, and from Nanchang to Chaochou; the exclusive right of the economic development of Fukien; and the right of Japanese missionary propaganda in China.<sup>61</sup>

The negotiations that ensued are known to the world,—how the Japanese tried to conceal the demands and to force the Chinese Government to an immediate acceptance in secrecy; how later, as the news of the demands leaked out, the Japanese denied their existence and presented to the world only eleven articles, omitting the most important,—particularly Group V.<sup>62</sup> As negotiations lagged, on April 26, 1915, Japan presented her revised demands in Twenty-four Articles. In the first group, relating to Shantung, there was practically no change except as to the demand for its non-alienation which was changed to a proposed exchange of notes.<sup>63</sup> In the second group, respecting South Manchuria and Eastern Inner Mongolia, the two regions, which had been treated alike in the original demands, were now differentiated. In South Manchuria, all the rights and concessions, as demanded

<sup>61</sup> *Chino-Japanese Negotiations*, p. 22.

<sup>62</sup> T. F. Millard, *Democracy and the Eastern Question*, App., pp. 376-377.

<sup>63</sup> *Chino-Japanese Negotiations*, p. 23.

originally, were still pressed, except the right of land ownership, which was omitted, and the right of inland travel and residence which was regulated by the existing and prevailing rules of extraterritorial jurisdiction in China. In other words, subject to certain limitations, all of South Manchuria was to be opened to the Japanese. In Eastern Inner Mongolia, whose status was originally placed on a par with South Manchuria, only an exclusive sphere of Japanese influence was now demanded. The granting of railway concessions and the pledging of local taxes as securities still required the consent of Japan. The opening of certain commercial ports in Eastern Inner Mongolia to the residence and trade of Japanese with the privilege of engaging in agricultural and industrial pursuits was still demanded.<sup>64</sup> In the third group dealing with the Hanyehping Company, the joint partnership was still demanded, but the demand for the monopoly of the mines in the neighborhood of those owned by the company was abandoned. The limitation that China would not, without the consent of Japan, convert the company into a state enterprise, or confiscate it, and the prohibition of the use of any foreign capital other than Japanese, were added. The fourth group treating of the non-alienation of China's coast was changed to a voluntary pronouncement on the part of the Chinese Government.<sup>65</sup>

In the fifth group respecting the political, military and financial control of China, all the previous de-

<sup>64</sup> *Chino-Japanese Negotiations*, pp. 24-27.

<sup>65</sup> *Ibid.*, pp. 27-28.

mands, in one form or another, were still pressed, with certain exceptions. The demand for joint administration of police in important places of China was dropped. The right of land-owning by the Japanese for the purpose of establishing hospitals, schools and churches was modified to the extent that this right was changed to the right to purchase and lease land, and the right to establish churches in the interior of China was omitted. The demand for railway concessions in the Yangtze Valley was modified only by the self-denying limitation that there should be no objection from the Power interested in these concessions, meaning, of course, Great Britain, and by the prohibition that China should not grant these concessions to any foreign Power, "before Japan comes to an understanding with the other Power which is heretofore interested therein." The clause relating to Fukien was changed from a demand for an exclusive Japanese sphere of interest to a prohibition of the construction, by any foreign Power, of any naval and military base, and the use of foreign capital for such construction. All the other demands, such as those concerning the purchase of arms or the establishment of joint arsenals, the employment of Japanese advisers, the right of Japanese missionary propaganda, as we have seen, were pressed in one form or another as before.<sup>66</sup>

In spite of revision, no agreement, however, could be reached to the satisfaction of both sides. On May 7, 1915, the Japanese presented an Ultimatum demanding a satisfactory reply within two days. All the

<sup>66</sup> *Chino-Japanese Negotiations*, pp. 28-29.

articles in Groups I, II, III, IV, and the article on Fukien in Group V of the revised demands were pressed. Group V excluding, as we have seen, the clause on Fukien, was detached and postponed for future negotiation. The Ultimatum was expressed in the following words: "So in spite of the circumstances which admitted no patience, they have reconsidered the feelings of the Government of their neighboring Country, and, with the exception of the article relating to Fukien which is to be the subject of an exchange of notes as has already been agreed upon by the Representatives of both nations, will undertake to detach the Group V from the present negotiation and discuss it separately in the future. Therefore the Chinese Government should appreciate the friendly feelings of the Imperial Government by immediately accepting without any alteration all articles of Groups I, II, III, and IV and the exchange of notes in connection with Fukien province in Group V as contained in the revised proposals presented on the 26th of April."<sup>67</sup>

Coerced by the Ultimatum, China yielded. On the next day, she replied and accepted the demands as set forth.<sup>68</sup> On May 25, 1915, two treaties were signed, one relating to Shantung, and the other to South Manchuria and Eastern Inner Mongolia, and thirteen notes were exchanged covering the remaining articles as accepted. The only addition was the pledge of the Japanese Government to restore the leased territory of Kiaochow, subject to certain conditions.<sup>69</sup>

<sup>67</sup> *Chino-Japanese Negotiations*, pp. 39-43.

<sup>68</sup> Millard, *op. cit.* App., pp. 405-406.

<sup>69</sup> *Chino-Japanese Negotiations*, pp. 49-70.

Thus ended the most sensational diplomatic negotiation of this period of Chinese foreign relations. By one bold assault on China, when the European Powers were grappling on the battlefields of Europe, Japan made herself the virtual successor to Germany in Shantung, opened up the whole of South Manchuria to the exploitation of her subjects, made an exclusive sphere of interest of Eastern Inner Mongolia, preserved the Hanyehping Company for the joint coöperation of the Japanese and Chinese capitalists, and secured the pledge of the non-alienation of China's coast. What she had failed to force on China was Group V, which, had it been accepted, would have made China virtually a protectorate or vassal of Japan.

Analyzing these demands, it will be seen that Japan had five distinct objectives in view. She wished to exploit the natural resources of China, particularly with respect to iron and coal. So she demanded the right of joint coöperation in the Hanyehping Iron Works, corresponding in importance to the Bethlehem Steel Corporation, and the right of engaging in mining, manufacture and any industrial enterprise whatever in South Manchuria, and the right of undertaking agricultural enterprises jointly with the Chinese in South Manchuria and Eastern Inner Mongolia. She desired to extend her territorial limits to South Manchuria and probably also to Eastern Inner Mongolia. So she demanded the right of purchasing and owning land in South Manchuria and Eastern Inner Mongolia, which right, if granted, because of the low price of land in these regions, would have meant the



falling of the landed property into the hands of the Japanese, thus endangering China's territorial integrity.<sup>70</sup> She also demanded the police power in "important places" of China, and although subsequently in the negotiations it was disclosed that the demand was to apply particularly to South Manchuria,<sup>71</sup> this right, if granted, would have given Japan the power of jointly administering the police departments in important places in China, especially in South Manchuria, resulting virtually in the cession of sovereign rights in that region,—which the Black Dragon Society had petitioned the Japanese Government to obtain. Coupled with the right of owning land, and the opening of the whole of South Manchuria to the Japanese, such an arrangement would have rendered the region in question a virtual colony of Japan.

Japan also was anxious to extend her interests in China so that she could occupy the position of paramount influence. So she made herself the successor to the German sphere of control in Shantung, and in addition she made South Manchuria and Eastern Inner Mongolia her exclusive spheres of influence, as far as the railway constructions and loan transactions to be secured on local taxes of these regions were concerned, by exacting the right of priority in these important respects. She also endeavored to establish her paramount influence in South Manchuria by securing preferences for the employment of Japanese as advisers and instructors on political, financial, military or police

<sup>70</sup> *Chino-Japanese Negotiations*, p. 12.

<sup>71</sup> *Ibid.*, pp. 9-10.

matters. She further attempted to secure railway concessions in the Yangtze Valley, which, if granted, would have added to her immense spheres part of that valley.

She further desired to acquire the political control of the Chinese Government. So she presented Group V relating to the employment of Japanese advisers, the joint administration of police in the important places of China, the purchase by China of a fixed amount of munitions of war,—corresponding closely to the specifications of the terms of the secret defensive alliance as formulated in the memorandum of the Black Dragon Society. It is needless to state, that, had these demands been granted, coupled with the other demands as seen above, China would have fallen into the control of Japan and become a protectorate thereof.

Japan also wished to establish an Asiatic Monroe Doctrine as a protective wall around China and the other states in Eastern Asia, and thus to hold off at arm's length the aggressions of Europe. So she demanded the non-alienation of China's coast.

Significant as these demands were, Japan, as is well known, had to withdraw Group V, excepting the clause respecting Fukien, largely because of the stubborn resistance of the whole Chinese nation and of the opposition of Great Britain and the United States. In the Ultimatum, however, Japan reserved the right to discuss Group V separately in subsequent negotiations.<sup>72</sup> Meanwhile, the Japanese representative in-

<sup>72</sup> *Chino-Japanese Negotiations*, p. 42.

sisted "that the Chinese Government should specifically state in their reply to the Ultimatum that Group V had been 'postponed for later negotiations.' " <sup>73</sup> It is to be observed that this reservation clearly proved that Japan did not give up the policy of political control by detaching Group V from the Ultimatum, but that she intended either to bring it up for future discussion or to resort to other means to attain her end. This was fully borne out by her subsequent moves, hence the statement of the Chinese Government:

"Since the date of the Ultimatum, Japan's policy in China appears to be expressing itself in terms of specific principles worked out in these demands in Group V 'postponed for later negotiations.' " <sup>74</sup>

The Okuma Cabinet failed in this direct assault through diplomatic channels. Upon the change in the cabinet from Okuma to Terauchi Japan modified the method of attack. She adopted the indirect method of loans and alliance with the pro-Japanese clique in the Peking Government as a means to the control of China. From 1915—the year of the Twenty-one Demands—to October 25, 1918, Japan loaned to China a total of from 200,000,000 yen to 391,430,000, varying in amount, of course, according to the authenticity of the loans reported.<sup>75</sup>

Thus analyzed, it is evident that the Twenty-one Demands and the subsequent treaties of May 25,

<sup>73</sup> *Shantung Question*, presented by China to the Paris Peace Conference, pub. by the Chinese National Welfare Society, 3d ed., 1920, p. 13.

<sup>74</sup> *Ibid.*, p. 13.

<sup>75</sup> Millard, *Democracy and the Eastern Question*, pp. 188-192.

1915, are in manifest violation of the principles of the Open Door Doctrine. The attempt of the Japanese to extend their territorial limits in the direction of South Manchuria and Eastern Inner Mongolia and to gain the control of the Chinese Government conflicted irreconcilably with the fundamental principle of the integrity of China. The attempt to make South Manchuria and Eastern Inner Mongolia exclusive spheres of influence with respect to railway construction and loan transactions to be secured on the local taxes of these regions, and to obtain paramount influence in South Manchuria by securing the preference in the appointment of advisers and instructors contravened the principle of equal opportunity of trade.

Unfortunately, at this crucial moment, when the Open Door Doctrine was thus challenged and flagrantly violated, the Wilson Administration was engrossed in the progress of the World War and had little attention to spare for the developments in the Far East. Relaxing all effort for the maintenance of the Open Door Doctrine in China, the Wilson Administration simply issued a declaration, presented alike to China and to Japan on May 13, 1915. This was prior to the final conclusion of the Treaties of May 25, 1915, but subsequent to the delivery of the Ultimatum of May 7, 1915. The declaration stated that the United States could not be bound by any agreement violating the treaty rights of the American citizens or the principles of the Open Door Doctrine.

“In view of the circumstances of the negotiations which have taken place and which are now pending between the Gov-

ernment of China and the Government of Japan and of the agreements which have been reached as a result thereof, the Government of the United States has the honor to notify the Government of the Chinese Republic that it cannot recognize any agreement or undertaking which has been entered into or which may be entered into between the Governments of China and Japan impairing the treaty rights of the United States and its citizens in China, the political or territorial integrity of the Republic of China, or the international policy relative to China commonly known as the open-door policy.”<sup>76</sup>

While this declaration, together with the withdrawal of the American Banking Group in 1913, marked the breakdown of the Open Door Doctrine, nevertheless it should be said that the United States Government did not mean to give up the policy, but on the contrary, it meant to reassert it when the conditions became more favorable. Because of the World War, it did not feel it wise or expedient to take issue with the Japanese Government at that time. It was claimed that the State Department entertained the plan of securing a redeclaration of the Open Door policy from Japan, and then would seek a settlement of the matter at the close of the Great War, by means of a general international conference, thus forecasting the Lansing-Ishii Agreement and the Washington Conference. To this effect it was reported:

“No protest or aggressive action against the Japanese acts or policy in China will be made by the United States at this time. The State Department is unwilling to begin a serious controversy in the Far East while Europe is seething with war and while this country is involved in the numerous difficulties

<sup>76</sup> *Sen. Docs.*, 67th Cong. 2d Sess., No. 126, p. 779.



growing out of that struggle. For this reason, there will be no diplomatic protest against Japanese aggressions in China until the European war has ended and its international complications have been resolved.

"The United States will content itself with securing from the Mikado's government a full and clear statement of the intention of the Japanese toward China, particularly toward the 'open door' policy, and of the effect of the recent demands made on China.

"WITH THIS STATEMENT ON THE DIPLOMATIC RECORD, THE STATE DEPARTMENT WILL WAIT UNTIL THE END OF THE WAR. THEN IT IS PLANNED TO TAKE UP THE QUESTION OF JAPANESE AGGRESSIONS IN CHINA WITH ALL OF THE WORLD POWERS WHO ARE ACTUALLY OR TACITLY COMMITTED TO THE 'OPEN DOOR' POLICY. STATE DEPARTMENT OFFICIALS BELIEVE THAT IN THIS WAY AN EFFECTIVE MEANS OF MEETING THE CHINESE SITUATION CAN BE EVOLVED WITHOUT COMPLICATING THE ISSUE." <sup>77</sup>

The United States was anxious to secure a reaffirmation of the Open Door Doctrine from Japan, and Japan on her part was eager to obtain the recognition by the United States of her special interests in China, particularly in view of the new position she had achieved in relation to China. The opportune moment came for the representatives of the two nations to meet and fulfill their desires, resulting in what is known as the Lansing-Ishii Agreement.

Wilson's friendly communication to China in June, 1917, which advised the Chinese people to compose their differences and to construct a central, responsible and united Government, was dispatched to China

<sup>77</sup> *Washington Post*, Sept. 17, 1916; Patrick Gallagher, *America's Aims and Asia's Aspirations*, pp. 199-200.

without consulting Japan first. Resenting this, and emulating the example of other Powers in sending war missions to the United States, the Japanese Government sent a mission to the United States, under the leadership of Viscount Ishii. As a consequence of the negotiations that ensued, Japan reaffirmed the Open Door Doctrine, and the United States recognized the special interests of Japan in China, particularly in those regions contiguous to those of the Japanese possessions:

"The Governments of the United States and Japan recognize that territorial propinquity creates special relations between countries, and consequently the Government of the United States recognizes that Japan has special interests in China, particularly in the part to which her possessions are contiguous.

"The territorial sovereignty of China, nevertheless, remains unimpaired, and the Government of the United States has every confidence in the repeated assurances of the Imperial Japanese Government that while geographical position gives Japan such special interests they have no desire to discriminate against the trade of other nations or to disregard the commercial rights heretofore granted by China in treaties with other powers.

"The Governments of the United States and Japan deny that they have any purpose to infringe in any way the independence or territorial integrity of China, and they declare, furthermore, that they always adhere to the principle of the so-called 'open door' or equal opportunity for commerce and industry in China.

"Moreover, they mutually declare that they are opposed to the acquisition by any government of any special rights or privileges that would affect the independence or territorial integrity of China, or that would deny to the subjects or citizens

of any country the full enjoyment of equal opportunity in the commerce and industry of China.”<sup>78</sup>

Meanwhile, China having declared war on Germany and Austria-Hungary on August 14, 1917, the question of equipping China for effective participation in the World War came to the fore. Upon the request of the Chinese Government for loans, and impelled by considerations of the necessities of war, and urged moreover by the complaints of the American merchants on the hindrance of investments in China and the reduction of trade through non-participation in loan transactions, for trade invariably follows loans,<sup>79</sup> the Wilson Administration reversed its policy and permitted American capitalists to make loans to China backed by diplomatic support. The participation was, however, qualified by certain conditions.

In June, 1918, the Department of State called together the American bankers interested and experienced in Chinese finance. At the conference, the project of loaning to China and the best way of doing so were discussed. On July 8, 1918, the banking firms interested informed the Department of State that, in their opinion, a consortium of the banking interests of the four Powers—the United States, Great Britain, France and Japan—should be formed, that one of the conditions of membership should be the relinquishment of existing or future options, and that, in case of a loan issue, the Department of State should make a

<sup>78</sup> Sec. Lansing to Amb. Ishii, Nov. 2, 1917, *Sen. Docs.*, 66th Cong. 1st Sess., No. 106, p. 225.

<sup>79</sup> Annual Report of the Am. Assn. of China, Dec. 29, 1914, T. F. Millard, *Our Eastern Question*, p. 357.

declaration announcing that the loan was made at the suggestion of the Government.<sup>80</sup> In response to this communication, the Department of State replied, on July 9, 1918, that it would comply with the wishes of the American bankers.<sup>81</sup>

As a fuller explanation, the Department of State gave to the press on July 29, 1918, a statement setting forth the essential features of the new policy.

"China declared war against Germany very largely because of the action of the United States. Therefore this Government has felt a special interest in the desire of China so to equip herself as to be of more specific assistance in the war against the Central Powers.

"Until the present time the engagements of the United States in preparing to exert effectively its strength in the European theatre of war has operated to prevent specific constructive steps to help China realize her desires. Recently, however, this Government felt that, because of the approach to Chinese territory of the scenes of disorder, a special effort should be made to place proper means at the disposal of China. Consequently a number of American bankers, who had been interested in the past in making loans to China, and who had had experience in the Orient, were called to Washington and asked to become interested in the matter. The bankers responded very promptly and an agreement has been reached between them and the Department of State which has the following salient features:

"First—The formation of a group of American bankers to make a loan or loans and to consist of representatives from different parts of the country.

<sup>80</sup> American Bankers to Dept. of State, July 8, 1918, *Consortium* (Carnegie Endowment for Internat. Peace, Div. of Int. Law, Pamphlet Series, No. 40), No. 1.

<sup>81</sup> *Ibid.*, No. 2.

"Second—An assurance on the part of the bankers that they will co-operate with the Government and follow the policies outlined by the Department of State.

"Third—Submission of the names of the banks who will compose the group for approval by the Department of State.

"Fourth—Submission of the terms and conditions of any loan or loans for approval by the Department of State.

"Fifth—Assurances that, if the terms and conditions of the loan are accepted by this Government and by the Government to which the loan is made, in order to encourage and facilitate the free intercourse between American citizens and foreign States, which is mutually advantageous, the Government will be willing to aid in every way possible and to make prompt and vigorous representations and to take every possible step to insure the execution of equitable contracts made in good faith by its citizens in foreign lands.

"It is hoped that the American group will be associated with bankers of Great Britain, Japan, and France. Negotiations are now in progress between the Government of the United States and those Governments which it is hoped will result in their co-operation and in the participation by the bankers of those countries in equal parts in any loan which may be made."<sup>82</sup>

Accepting the principles of the American proposal, the representatives of the allied Powers concerned met at the Paris Peace Conference on May 11 and 12, 1919, when several resolutions were passed and an agreement was reached. Upon approval of the governments concerned, the representatives of the banking groups met in New York City in October, 1920, and, on October 15, signed an agreement forming the New International Banking Consortium.<sup>83</sup>

<sup>82</sup> *N. Y. Times*, July 30, 1918, p. 13.

<sup>83</sup> Text of the China Consortium Agreement, *Consortium*, No. 34; Bau, *For. Rel. of China*, chap. on New International Banking Con-



Meanwhile, grave questions of international importance arose. The abrogation of the Anglo-Japanese Alliance, the limitation of naval competition, the settlement of the Pacific and Far Eastern Questions—all awaited solution. To this end, President Harding extended an invitation, on August 11, 1921, to the great naval Powers, Great Britain, Japan, France and Italy, for a discussion on the limitation of armament. In addition to the aforesaid Powers, invitations were extended to China, Belgium, the Netherlands, and Portugal for a discussion of the Pacific and Far Eastern Questions. In conjunction with the discussion of the latter questions, the United States Government brought to pass a reaffirmation and definition of the Open Door Doctrine by the Nine Powers assembled, which was embodied in the Nine Power Treaty of February 6, 1922, relating to the principles and policies to be followed concerning China.

sortium; *vide intra*, chap. on Open Door Doctrine and New International Banking Consortium, and App. X.

## CHAPTER V

### EQUAL OPPORTUNITY OF TRADE

HAVING completed the survey of the history of the Open Door Doctrine, let us now analyze the meaning of its principles. To begin with, we shall consider the principle of equal opportunity of trade.

As set forth in the first circular note of John Hay, September 6, 1899, equal opportunity of trade was to be secured and to be maintained by these three provisions:

"First. [That each Power] will in no wise interfere with any treaty port or any vested interest within any so-called 'sphere of interest' or leased territory it may have in China.

"Second. That the Chinese treaty tariff of the time being shall apply to all merchandise landed or shipped to all such ports as are within said 'sphere of interest' (unless they be 'free ports'), no matter to what nationality it may belong, and that duties so leviable shall be collected by the Chinese Government.

"Third. That it will levy no higher harbor dues on vessels of another nationality frequenting any port in such 'sphere' than shall be levied on vessels of its own nationality, and no higher railroad charges over lines built, controlled, or operated within its 'sphere' on merchandise belonging to citizens or subjects of other nationalities transported through such 'sphere' than shall be levied on similar merchandise belonging to its own nationals transported over equal distances."<sup>1</sup>

<sup>1</sup> Sec. Hay to Amb. Choate, Sept. 6, 1899, *U. S. For. Rel.*, 1899, p. 132.

Interpreting the above three stipulations, the Open Door principle of equal opportunity of trade was to be maintained by non-interference with the treaty ports or vested interests, so that the gateways of Chinese commerce might remain open and vested interests be respected. It was further to be upheld by a uniform levy of the Chinese Treaty Tariff by the Chinese Government so that the merchandise of foreign traders might not be discriminated against on the ground of nationality. It was finally to be secured by equal treatment in harbor dues and railway charges, or, in other words, in matters of transportation. In short, according to the original proposals of John Hay, the Open Door of equal opportunity was to be maintained by non-interference with the treaty ports and vested interests, by the uniform levy of Chinese customs tariff by the Chinese Government, and by equal treatment in matters of transportation.

It was because of this conception of the principle of equal opportunity that John Hay, on April 25, 1903, instructed the American Minister at Peking to insist on the request of the United States for treaty ports and consulates in Manchuria and on equal opportunity for foreigners in the public service of North China,<sup>2</sup> in protest against the Russian endeavors to close the door of Manchuria, and, in some ways, of North China.<sup>3</sup> It was in behalf of the same interpretation of the doc-

<sup>2</sup> Sec. Hay to Min. Conger, April 25, 1903, *U. S. For. Rel.*, 1903, p. 54; see also Min. Conger to Sec. Hay, April 23, and to Prince Ching, April 27, *Ibid.*, pp. 53, 55.

<sup>3</sup> Min. Conger to Sec. Hay, May 4, 1903, enc. Russian note of Chargé Plançon to Prince Ching, April 3/18, *Ibid.*, p. 56; Brit. For. Office, *China No. 2* (1904: *Parl. Papers*, Vol. 110), No. 94.

trine of equal opportunity that John Hay registered vigorous protests against the Russian pressure for the exclusive development of Manchuria.<sup>4</sup> Pursuant to the same interpretation, Elihu Root repeatedly protested against the Japanese endeavors to establish commercial paramountcy in Manchuria after the Russo-Japanese War.<sup>5</sup>

When the Taft Administration came into office in 1908 the doctrine of equal opportunity took on a new meaning. Hitherto it had been taken to mean keeping open the doors in all parts of China, equal treatment in matters of customs duties and transportation, and prohibition of grants of preferential or monopolistic rights; in short, to mean equal opportunity in commerce and industry. But now the doctrine was to be applied to the struggle for concessions and loans in China. It advocated, in essence, that the United States should have an equal share in railway concessions and in the supply of materials, engineers, and other privileges. Conversely, it asserted that inasmuch as the United States claimed an equal share in concessions and privileges, she would reciprocate by giving equal opportunity to the other Powers to participate in the concessions and loans that she might obtain in China.

Holding this interpretation of the doctrine of equal opportunity, in the Hukuang Loan controversy, Secretary P. C. Knox, it will be recalled, vigorously demanded equal participation in the loan. Though

<sup>4</sup> Sec. Hay to Min. Conger, Feb. 1, 1902, *U. S. For. Rel.*, 1902, p. 275.

<sup>5</sup> *Ibid.*, 1906, pp. 174, 179, 186.

basing the demands of the United States Government on the assurances for preference given by the Chinese Government in 1903 and 1904,<sup>6</sup> the request for equal participation was nevertheless actuated by the desire to maintain the Open Door principle of equal opportunity of trade and incidentally the integrity of China. It was apprehended that if denied equal participation, not only American financiers would be deprived of the equal opportunity to finance the railways, but American merchants would also lose the equal opportunity to supply materials and to enjoy other benefits which would necessarily follow the loan. "The principle involved is that of equal opportunity." <sup>7</sup>

Consequently, in reply to the offer by the other three parties interested of a one-fourth share in the Hupeh Section of the Hankow-Szechuan Railway, as we have seen, the United States Government insisted on its demand for a one-fourth share in the entire loan,<sup>8</sup> deploring at the same time that the practical application of the Open Door Doctrine of equal opportunity should thus be frustrated by individual bankers.<sup>9</sup> When it was suggested that, having been admitted to equal participation in the loan, the United States Government should not insist upon equal opportunity to supply materials, Secretary Knox further demanded that American interests, besides equal financial participation, should enjoy "absolutely equal rights in

<sup>6</sup> *U. S. For. Rel.*, 1909, pp. 155, 156; MacMurray, No. 1911/5.

<sup>7</sup> Act. Sec. of State to Amb. Reid, July 9, 1909, *U. S. For. Rel.*, 1909, p. 169.

<sup>8</sup> Prince Ching to Chargé Fletcher, July 14, 1909, *Ibid.*, p. 177.

<sup>9</sup> Sec. Knox to Chargé Fletcher, July 15, 1909, *Ibid.*, p. 179.



every particular" including all rights with respect to "materials, engineers, auditors, and any other benefits." <sup>10</sup>

Conversely, when the American and British interests had jointly secured the Chinchow-Aigun Railway concession in Manchuria,<sup>11</sup> as we recall, Secretary Knox proposed the neutralization of the Manchurian Railways.<sup>12</sup> Likewise, as we have further seen, when the United States Government had been exclusively offered the Currency Reform and Manchuria Industrial Développement Loan by the Chinese Government, and the American Banking Group had signed the preliminary agreement,<sup>13</sup> it welcomed the cordial support of the Powers,<sup>14</sup> and extended participation to the Powers interested.

In pursuit of this interpretation of the doctrine of equal opportunity, namely, participation in concessions and loans on a basis of absolute equality, the Powers organized the International Banking Consortium as the practical way of bringing about these conditions. Thus, in the agreement of the Sextuple Consortium, June 18, 1912,<sup>15</sup> equal participation on a footing of absolute parity was stipulated (Art. II). Likewise, in the agreement of the New International

<sup>10</sup> Sec. Knox to Chargé Fletcher, July 16, 1909, same to same, July 20, *U. S. For. Rel.*, 1909, p. 180.

<sup>11</sup> *Ibid.*, 1910, pp. 231-234.

<sup>12</sup> Knox's memorandum, Nov. 6, 1909, *Ibid.*, 1910, p. 234.

<sup>13</sup> Oct. 27, 1910, MacMurray, 1911/2, p. 851.

<sup>14</sup> Act. Sec. of State to Am. Amb. to France, *U. S. For. Rel.*, 1912, p. 91. Same to Am. Embassies at London, Berlin, St. Petersburg and Tokio.

<sup>15</sup> MacMurray, No. 1913/5, p. 1021.

Banking Consortium signed on October 15, 1920, a stipulation to the same effect was provided. Equal rights were accorded to all banking groups in all operations, the signing of contracts, the equal sharing in existing agreements and future contracts, and in the liberty to decline participation.

"This Agreement is made on the principle of complete equality in every respect between the parties hereto . . . and the parties hereto shall conclude all contracts with equal rights and obligations as between themselves and each party shall have the same rights, privileges, prerogatives, advantages, responsibilities and obligations of every sort and kind. . . . each of the parties hereto shall be entitled to participate equally in the existing Agreements and will offer to the other parties hereto an equal participation with itself in any future loan business falling within the scope of this Agreement."<sup>16</sup>

The doctrine of equal opportunity received its most authoritative interpretation at the Washington Conference, or the Conference on the Limitation of Armament, in connection with which Pacific and Far Eastern questions were discussed, November 12, 1921–February 7, 1922. Taking advantage of this opportunity, in the discussion on the Pacific and Far Eastern questions by the Nine Powers having interests in the region concerned—the United States, Belgium, China, France, Great Britain, Italy, Japan, the Netherlands, Portugal,—the Open Door principle of equal opportunity was given a specific definition.

In the Nine Power Treaty, February 6, 1922, the

<sup>16</sup> *Consortium*, No. 34, Art. 4. For an account of the New International Banking Consortium, see Bau, *Foreign Relations of China*, chaps. 24–25.

fundamental principles respecting the equal opportunity of trade in relation to China were stated as follows:

"The Contracting Powers, other than China, agree: . . .

"(3) To use their influence for the purpose of effectually establishing and maintaining the principle of equal opportunity for the commerce and industry of all nations throughout the territory of China;

"(4) To refrain from taking advantage of conditions in China in order to seek special rights or privileges which would abridge the rights of subjects or citizens of friendly States and from countenancing action inimical to the security of such States." <sup>17</sup>

Thus it is seen that the principle of equal opportunity is stipulated both affirmatively and negatively. The first stipulation reaffirms the principle in a positive manner. The second provision states it negatively, putting an injunction on special rights or privileges abridging the rights of nationals of other states. In addition, it introduces a new principle, discountenancing actions inimical to the security of other friendly states, which is tantamount to a recognition of the principle of self-preservation.

Moreover, in the same treaty, the principle of equal opportunity of trade is defined as debarring the practice of spheres of influence and prohibiting the enjoyment of monopolies and preferences abridging the rights of other nationals or frustrating the application of the principle of equal opportunity, by virtue of their scope, duration and geographical extent:

<sup>17</sup> *Sen. Docs.*, 67th Cong. 2d Sess., No. 126, p. 895, Art. I.

"With a view to applying more effectually the principles of the Open Door or equality of opportunity in China for the trade and industry of all nations, the Contracting Powers, other than China, agree that they will not seek, nor support their respective nationals in seeking

"(a) any arrangement which might purport to establish in favour of their interests any general superiority of rights with respect to commercial or economic development in any designated region of China;

"(b) any such monopoly or preference as would deprive the nationals of any other Power of the right of undertaking any legitimate trade or industry in China, or of participating with the Chinese Government, or with any local authority, in any category of public enterprise, or which by reason of its scope, duration and geographical extent is calculated to frustrate the practical application of the principle of equal opportunity."

Apprehending, however, that an unreasonable and excessive application of the foregoing stipulations might prejudice the right of acquiring necessary properties for a particular undertaking or impair the zest for invention and research usually fostered by the enjoyment of monopolistic privileges, a provision was therefore added:

"It is understood that the foregoing stipulations of this Article are not to be so construed as to prohibit the acquisition of such properties or rights as may be necessary to the conduct of a particular commercial, industrial, or financial undertaking or to the encouragement of invention and research."

Realizing, further, that the covenanting on the part of the Powers other than China to observe the above stipulations was not sufficient to warrant a condition of equal opportunity of trade, and that China herself

must also agree to be bound by these conditions, for she could by granting special privileges, violate the principle of equal opportunity, so that the Powers discriminated against would be compelled to claim similar or equivalent privileges, an additional stipulation was adopted obliging China to observe the same stipulations in dealing with applications for concessions:

"China undertakes to be guided by the principles stated in the foregoing stipulations of this Article in dealing with applications for economic rights and privileges from Governments and nationals of all foreign countries, whether parties to the present Treaty or not."<sup>18</sup>

Thus, it is observed that the Open Door principle of equal opportunity has been defined as inconsistent and incompatible with the practice of spheres of influence, and with the enjoyment of such monopolies and preferences as above described, other than the acquisition of properties for legitimate undertakings or for the encouragement of invention and research.

Further, as the principle of equal opportunity cannot be maintained in China without some means of enforcement, especially in its application to the seeking of concessions and dealings involving enormous interests, where controversies are bound to arise, four measures were taken to facilitate its maintenance.

First, a Board of Reference was authorized to be established in China. Its constitution was to be formulated, subject to the approval of the Powers, by the Special Conference as provided in the Treaty of February 6, 1922, relating to the Chinese customs

<sup>18</sup> *Sen. Docs.*, 67th Cong. 2d Sess., No. 126, p. 895, Art. III.



tariff. Its function is to make investigation and report, and not to render judgment. Its jurisdiction is not compulsory, or its report binding. It is intended only to throw a flood of light on the facts of the case and to further the general policy of stabilizing conditions in the Far East.<sup>19</sup>

Second, unfair discrimination throughout the whole of the Chinese railways was forbidden. The obligation was primarily placed upon the shoulders of China, although a corresponding obligation was also imposed upon the Powers or their nationals having control or management of any railways in China.

"China agrees that, throughout the whole of the railways in China, she will not exercise or permit unfair discrimination of any kind. In particular there shall be no discrimination whatever, direct or indirect, in respect of charges or of facilities on the ground of the nationality of passengers or the countries from which or to which they are proceeding, or the origin or ownership of goods or the country from which or to which they are consigned, or the nationality or ownership of the ship or other means of conveying such passengers or goods before or after their transport on the Chinese Railways.

"The Contracting Powers, other than China, assume a corresponding obligation in respect of any of the aforesaid railways over which they or their nationals are in a position to exercise any control in virtue of any concession, special agreement or otherwise."<sup>20</sup>

It will be noticed that the uniformity of railway charges<sup>21</sup> was one of the three means proposed by

<sup>19</sup> Resolution No. 3, *Sen. Docs.*, 67th Cong. 2d Sess., No. 126, p. 903.

<sup>20</sup> Nine Power Treaty, Art. V, *Ibid.*, p. 896.

<sup>21</sup> Sec. Hay to Amb. Choate, Sept. 6, 1899, *U. S. For. Rel.*, 1899, p. 132.

John Hay for the maintenance of equal opportunity of trade. The present stipulation covered not only railway charges, but also all matters respecting railways, and not only the railways under foreign control, but also those under Chinese control.

Third, to facilitate the adjustment of conflicting concessions and to bring the moral force of publicity to bear upon the conduct of the Powers, the publication of all matters affecting the political and other international obligations of China and of the several Powers in relation to China, was provided. All treaties, conventions, exchange of notes, or other international agreements, existing or future, which the participating Powers may have with China, or with any other Power or Powers in relation to China, which they deem to be still in force and upon which they may desire to rely, were to be made known. All contracts between their nationals of one part, and the Chinese Government or any of its administrative subdivisions, of the other part, involving concessions of public character as specified, or a lien upon any of the public revenues or properties of the Chinese Government or any of its administrative subdivisions, should likewise be made known.<sup>22</sup>

Fourth, availing themselves of the opportunity presented by the conclusion of the treaty between the Nine Powers relating to the Chinese customs tariff, the principle of equal treatment and opportunities in customs duties was reiterated (Art. V), and, for the first time, the principle of uniformity in the rates of

<sup>22</sup> Resolution No. 10, *Sen. Docs.*, 67th Cong. 2d Sess., No. 126, p. 909.

customs duties levied at all frontiers of China, land or maritime, was recognized (Art. VI), the land frontier customs having hitherto generally enjoyed the special privilege of a reduction of about one-third of the maritime customs duties.<sup>23</sup>

It can be said, in recapitulation, that the principle of equal opportunity of trade as understood by John Hay assumes free and untrammelled entrance into the gateways of the treaty ports, equal treatment in the matters of tariff duties and transportation by navigation or railway, and the prohibition of any preferential or monopolistic rights in any industry or in any part of China. With the advent of the Taft Administration, the principle of equal opportunity, as asserted by Secretary Knox, assumed a new interpretation, signifying equal participation in concessions and loans with the necessary consequence of sharing equally in the supply of materials and experts and in the enjoyment of other benefits. Finally, at the Washington Conference, in the Nine Power Treaty, the principle of equal opportunity of trade was given an authoritative definition, which debars the practice of spheres of influence, and four means were provided to facilitate the maintenance of the principle, namely, the Board of Reference, the prohibition of unfair discrimination in railway matters, the publication of existing and future commitments with or with respect to China, and the uniform levy of tariff rates at all frontiers, land or maritime.

<sup>23</sup> Nine Power Treaty relating to Chinese Customs Tariff, *Sen. Docs.*, 67th Cong. 2d Sess., No. 126, p. 901.

## CHAPTER VI

### INTEGRITY OF CHINA

COÖRDINATE with the principle of equal opportunity of trade is that of the integrity of China. It constitutes one of the two cardinal postulates of the Open Door Doctrine.

In fact, in the opinion of Secretary Charles E. Hughes, integrity of China is but another phase of the principle of equal opportunity of trade.

"These principles have been called coördinate, but they are, in effect, different aspects of the same principle. For any impairment of the sovereignty of China must affect the rights and interests of other powers in relation to China; and any attempt to establish a particularistic and exclusive system in favor of any foreign nation thereby creates conditions prejudicial to China's freedom of action in relation to other Powers. The distinction between the two phases of this question would therefore seem to be one of relative emphasis rather than of kind."<sup>1</sup>

In the first circular note of September 6, 1899, John Hay did not expressly make the integrity of China one of the principles of his policy. A close scrutiny of his correspondence, however, gives the impression that the integrity of China was to him an implied condition of his policy, or a presumed prerequisite for the

<sup>1</sup> Report of the American Delegation to Pres. Harding, Feb. 9, 1922, *Sen. Docs.*, 67th Cong. 2d Sess., No. 126, p. 829.

successful operation of his doctrine. It is evident that, should China be partitioned, or the spheres of influence grow into regions of foreign control, there would be a consequent closing of the doors of the various regions, and there would therefore be no room and no necessity for the Open Door Doctrine. In line with this reasoning, John Hay stated in his first circular note:

"This Government . . . hopes also to retain there an open market for the commerce of the world, remove dangerous sources of international irritation, and hasten thereby united or concerted action of the powers at Peking in favor of the administrative reforms so urgently needed for strengthening the Imperial Government and maintaining the integrity of China . . ." <sup>2</sup>

Again, the second stipulation of his three proposals required the maintenance of the Chinese treaty tariff and the collection thereof by the Chinese authorities. It is manifest that no Chinese treaty tariff could be established or collected by the Chinese Government unless the integrity of China should be maintained; hence, the reign of equal opportunity of trade in China presupposes the existence of the sovereignty and integrity of China.

During the Boxer Uprising, when the integrity of China was menaced by the peril of partition, John Hay, it will be recalled brought to the fore the implied or presupposed principle of his doctrine,—the integrity of China.

<sup>2</sup> Sec. Hay to Amb. Choate, Sept. 6, 1899, *U. S. For. Rel.*, 1899, p. 132.



"The policy of the Government of the United States is to seek a solution which may bring about permanent safety and peace to China, preserve Chinese territorial and administrative entity, . . ." <sup>3</sup>

In his reply to Great Britain relating to the Anglo-German Agreement of October 16, 1900, he placed an emphasis on the principle of the integrity of China coördinate with that of equal opportunity of trade.<sup>4</sup>

Again, reaffirming the principle of the integrity of China, in response to the suggestion of the German Kaiser, William II,<sup>5</sup> as we have seen, John Hay dispatched a circular on January 13, 1905, requesting the Powers that, in the final negotiations between Russia and Japan, no claims be made at the expense of China's territorial integrity.<sup>6</sup>

Further, as a corollary, China's integrity and sovereignty should be respected, not only in time of peace, but also in time of war. That is to say, China's neutrality should be respected. Accordingly, as has been noticed, at the outbreak of the Russo-Japanese War, John Hay asked the belligerent Powers in China to observe the neutrality of the latter.<sup>7</sup>

Subsequently, when Elihu Root succeeded John Hay as Secretary of State, on the occasion of the

<sup>3</sup> Sec. Hay's circular note, July 3, 1900, *U. S. For. Rel.*, 1901, App., Affairs in China, p. 12.

<sup>4</sup> Sec. Hay to Lord Pauncefote, Oct. 29, 1900, *Ibid.*, p. 32.

<sup>5</sup> Diary of John Hay, Jan. 5, 1905, Thayer, *Life of John Hay*, Vol. 2, p. 385.

<sup>6</sup> *U. S. For. Rel.*, 1905, p. 1.

<sup>7</sup> Sec. Hay's circular, Feb. 20, 1904, Sec. Hay to U. S. representatives at Peking, Tokio and St. Petersburg, Feb. 10, *Ibid.*, 1904, pp. 2, 118, 418, 722.

Russian establishment of a municipal administration at Harbin and other towns within the zone of the Chinese Railway, Mr. Root, it will be remembered, took the attitude that China's sovereignty was complete and unimpaired, except by the grant of extraterritorial rights through conventions and treaties. In other words, applying the accepted principle of international law that the sovereignty of a nation is complete and absolute within the limits of its territory, save by its own consent through treaties and agreements, Mr. Root brought into prominence the new concept and interpretation of the integrity of China.<sup>8</sup>

Such being the historical development of the doctrine of the integrity of China, let us now analyze the meaning thereof. The first question in this analysis is as to its scope: whether the principle of the integrity of China is to cover the whole of China, including the outlying territories, or only China proper, excluding the territories. If the principle covers only China proper, then the outlying territories or dependencies, such as Tibet, Mongolia and Manchuria, will not come under the protection of the principle. That is, the Powers will not be obligated by the Open Door Doctrine of the integrity of China to respect her sovereignty in these regions. If so, then, as far as the Open Door Doctrine is concerned, Japan or Russia or Great Britain or any nation will be at liberty to take these dependencies or territories.

In fact, this understanding of the scope of the prin-

<sup>8</sup> Memorandum to Russian Embassy, July 2, 1908, *U. S. For. Rel.*, 1910, p. 207.

ciple of integrity of China has not infrequently been assumed by some of the Powers. Though professing to adhere to the Open Door principle of the integrity of China,<sup>9</sup> Russia occupied Manchuria, as we have seen, during the Boxer uprising, and made repeated attempts to make that region a Russian protectorate, refused to pledge the integrity of China in Manchuria when challenged by Japan, and finally had to be driven out from South Manchuria by the sword of Japan.<sup>10</sup> Silently countenancing the Russian advance in Manchuria so as to avoid a collision with the Russian expansion in Europe, it will be remembered, Prince von Bülow, on March 15, 1901, after the conclusion of the Anglo-German Agreement of October 16, 1900, while irrevocably reaffirming the Open Door Doctrine and pledging to uphold the territorial integrity of China, nevertheless declared in the Reichstag that the German Government did not regard Manchuria as being within the purview of the Anglo-German Agreement.<sup>11</sup> It is manifest that, having pledged to uphold the territorial integrity of China, such a declaration from such a high authority of the German Government could not but convey the meaning that the German Government construed the scope of the principle of the integrity of China as not covering the area of Manchuria.

Again, when volunteering to present a resolution embodying general principles in relation to China

<sup>9</sup> Acting Sec. Adee's circular, Aug. 29, 1900, *U. S. For. Rel.*, 1900, p. 304; Moore, *Int. Law Digest*, Vol. 5, p. 484.

<sup>10</sup> *Vide supra*, chap. on The Growth of the Doctrine.

<sup>11</sup> *London Times*, March 16, 1901.

at the discussion of the Pacific and Far Eastern Questions at the Washington Conference, Elihu Root endeavored to qualify his resolution by limiting the scope of its application to China proper and excluding the outlying districts.

"Mr. Root believed it was desirable to distinguish between China proper and the territories over which China exercised suzerainty; he suggested taking China proper, for if the committee had to deal with outlying districts at the same time, it would only lead to confusion; it would be possible to deal with the outlying districts later; it was impossible to do both at once; if it pleased the committee, he would be glad to present a resolution in regard to China proper."<sup>12</sup>

The Chinese delegation entered vigorous protests against this qualification and understanding.

"The confirmation of the principles of the territorial integrity should not be confined to China proper, as appeared to have been intimated. The territories of the Chinese Republic were defined in its Constitution. The Chinese delegation could not discuss any question which might give the impression of attempting to modify the territorial boundaries of China. It was in the name of the Chinese Republic that he and his colleagues were participating in the discussion, and the territories of the Republic were to be considered as an entity."<sup>13</sup>

In view of the protest, when the resolution was presented for adoption, Mr. Root explained that the term China as used should mean the same China as commonly understood in the various treaties and declarations, thus obviating the difficulties of the

<sup>12</sup> Nov. 19, 1921, *Sen. Docs.*, 67th Cong. 2d Sess., No. 126, p. 451.

<sup>13</sup> Statement of Dr. V. K. Wellington Koo, *Ibid.*, p. 451.

Chinese delegation and tacitly conceding the extension of the scope of the integrity of China to the whole of China including the outlying territories, as is commonly understood in treaties and declarations.<sup>14</sup>

Nevertheless, notwithstanding variations in interpretation as to the scope of the principle of the integrity of China, historically considered, the question can have only one conclusion, that is, the scope of the doctrine of the integrity of China is to cover the whole of China including the outlying territories. John Hay's repeated protests against the Russian attempts to absorb Manchuria<sup>15</sup> point conclusively to the interpretation that the scope of the integrity of China does cover Manchuria, and, by inference, the other outlying territories of China. As we have seen before, regarding the Manchurian Convention stipulating for the conditional withdrawal of the Russian troops and restricting China's sovereign rights in Manchuria,<sup>16</sup> John Hay advised that no arrangement be made which would permanently impair the territorial integrity of China, thus indicating that in accordance with his interpretation the integrity of China did cover Manchuria and the other outlying regions.<sup>17</sup> Again, as we recall, in protest against the pressure of the Russian Government for the monopoly or rather the right of option in the industrial development of Manchuria,<sup>18</sup>

<sup>14</sup> *Sen. Docs.*, 67th Cong. 2d Sess., No. 126, p. 454.

<sup>15</sup> *Vide supra*, chap. on The Growth of the Doctrine.

<sup>16</sup> Min. Conger to Sec. Hay, Dec. 3, 1901, *U. S. For. Rel.*, 1902, p.

271.

<sup>17</sup> Sec. Hay to Min. Conger, Dec. 6, 1901, *Ibid.*, p. 271.

<sup>18</sup> Min. Conger to Sec. Hay, Jan. 29, 1902, *Ibid.*, pp. 273-274.



John Hay declared that such "an agreement . . . strongly tends toward permanently impairing the sovereign rights of China in this part of the Empire,"<sup>19</sup> thus tacitly acknowledging that the sovereignty and integrity of China covered Manchuria. Further, as we have also observed, resenting the Russian Seven Articles as conditions for further evacuation of Manchuria in 1903,<sup>20</sup> John Hay insisted on the American request for the opening of treaty ports and the establishment of consulates in Manchuria and on the equal opportunity of foreigners in the public service of North China,<sup>21</sup> further evidencing his belief that the doctrine of the Open Door and the integrity and sovereignty of China were to be applied to Manchuria as well as to the other outlying territories. In addition, as we further recall, in the Treaty of Portsmouth, September 5, 1905, concluding the peace between Russia and Japan, as an assertion of the Open Door principle of the integrity of China, the two Powers agreed to evacuate Manchuria and to restore the territory to the exclusive administration of China; and the Imperial Russian Government declared they had not in Manchuria any territorial advantages or preferential or exclusive concessions in impairment of Chinese sovereignty or inconsistent with the principle

<sup>19</sup> Sec. Hay's memorandum of protest, sent to the U. S. representatives in Austria, Belgium, China, France, Germany, Great Britain, Italy, Japan, the Netherlands, Russia and Spain, Feb. 1, 1902, *U. S. For. Rel.*, 1902, pp. 275-276.

<sup>20</sup> Brit. For. Off., *China No. 2* (1904: *Parl. Papers*, Vol. 110), No. 94; *U. S. For. Rel.*, 1903, pp. 56-58.

<sup>21</sup> Min. Conger to Sec. Hay, April 23, 1903, Hay to Conger, April 25, Conger to Prince Ching, April 27, *Ibid.*, pp. 53-55.

of equal opportunity,<sup>22</sup> which further evidenced the application, and the extension of the scope, of the principle of the integrity of China to Manchuria.

As has also been observed, when the Chinese Eastern Railway Company endeavored to establish a municipal administration in Harbin and other towns within the zone of the railway, Secretary Root lodged vigorous protests.<sup>23</sup> This implies the fundamental contention that the integrity and sovereignty of China extends over Manchuria as elsewhere. In the proposal for the neutralization of the railways in Manchuria, as we have witnessed before, Secretary Knox emphasized the idea that the most effective way of maintaining the Open Door in China was to internationalize and neutralize the railways, and, in this case, those in Manchuria.<sup>24</sup> It is evident that, in the opinion of Secretary Knox, the most effective way in maintaining China's integrity and sovereignty in Manchuria and the reign of equal opportunity therein was to neutralize and internationalize the railways in that region, thus showing his belief that the integrity of China covered Manchuria as well as other outlying territories.

What is more, in the formation of the New International Banking Consortium, when Japan attempted to enter a reservation excluding South Manchuria and Eastern Inner Mongolia from the scope of the Consortium,<sup>25</sup> the Department of State firmly rejected the

<sup>22</sup> MacMurray, No. 1905/8.

<sup>23</sup> Sec. Root to Russian Amb., April 9, 1908, *U. S. For. Rel.*, 1910, pp. 203-205.

<sup>24</sup> Sec. Knox to Amb. Reid, Nov. 6, 1909, *Ibid.*, pp. 234-235.

<sup>25</sup> Aug. 27, 1919, *Consortium*, No. 15.

reservation, declaring that such a measure would revive the doctrine of spheres of influence in even a worse form than was followed during the days when China was on the brink of disintegration.<sup>26</sup> Similarly, echoing the sentiment of the United States Government, the British Foreign Office notified the Japanese Government that her reservation, based as it was on territorial claims, was contrary to the principles of the New Consortium, namely, to abolish spheres of influence and to open the whole of China to world commerce. It was pointed out that, in view of the strategic location in relation to Peking of Eastern Inner Mongolia, whose southern boundary extended and practically enveloped the capital of China, the reservation would be irreconcilable with the principle of the maintenance of China's independence and territorial integrity.<sup>27</sup>

Finally, Manchuria, Mongolia and the other outlying territories are indispensable to the preservation of the integrity of China. These dependencies have served as a cordon of protection to the entity of China. It will be remembered, it was the deprivation of some of her dependencies that made possible the Western aggression on China's territory and sovereignty. For instance, the annexation of Korea gave Japan a stepping-stone in advancing upon the career of continental expansion, menacing the very integrity of China. Besides, Manchuria and Mongolia are the historic roads of invasion into China. Any nation controlling

<sup>26</sup> Oct. 28, 1919, *Consortium*, No. 16.

<sup>27</sup> Earl Curzon's memorandum to Japanese Amb., Nov. 20, 1919, *Ibid.*, No. 17.

or possessing these regions has in her hands the key to the conquest of China. Hence, the inclusion of the outlying territories in the scope of the integrity of China is absolutely necessary from the point of view, not only of the preservation of China, but also of the effective maintenance of the Open Door principle of the integrity of China.

Thus, from the aforesaid array of historic evidence—John Hay's repeated protests against the Russian advance in Manchuria, Elihu Root's contention in regard to the Russian establishment of a municipal administration at Harbin, Knox's neutralization plan in application to the Manchurian railways, and the rejection of the Japanese reservation relative to South Manchuria and Eastern Inner Mongolia from the agreement of the New International Banking Consortium—and from the strategic necessity of preserving Mongolia, Manchuria and other outlying territories for the integrity of China, it is clearly proved that the scope of the integrity of China should cover Manchuria and the other outlying territories.

The integrity of China has been variously defined. It can mean sovereignty, independence, territorial integrity or administrative integrity.

That the integrity of China means her sovereignty and independence admits practically of no doubt. There is a general agreement among the Powers to this effect. In the Franco-Japanese Agreement of 1907, the Russo-Japanese Agreement of 1907, the Root-Takahira Agreement of 1908, the Lansing-Ishii Agreement of 1917, and the Anglo-Japanese Alliance

of 1905 and 1911,—in all these agreements the expression was employed, “the independence and integrity of China.”

There can be little dispute as to the meaning of the territorial integrity of China. John Hay’s circular note of July 3, 1900, as we have seen, referred to the preservation of China’s territorial integrity:

“ . . . the policy of the Government of the United States is to . . . preserve Chinese territorial and administrative entity, . . . ”<sup>28</sup>

The reply to the British Government respecting the Anglo-German Agreement, it will be further recalled, was given in response to the request to concur in the principles of the maintenance not only of the Open Door but also of the territorial integrity of China, as to which John Hay declared:

“The United States have heretofore made known their adoption of both these principles.”<sup>29</sup>

John Hay’s request, January 13, 1905, that in the final negotiations between Russia and Japan no claims be made by the Powers at the expense of China’s territorial integrity, further proves that the integrity of China involves and implies her territorial entity.<sup>30</sup> In the subsequent agreements or declarations, whenever the term “the integrity of China” was employed, its meaning as to territorial integrity was never questioned.

<sup>28</sup> *U. S. For. Rel.*, 1901, App., Affairs in China, p. 12.

<sup>29</sup> Sec. Hay to British Amb. Oct. 29, 1900, similar note, *mutatis mutandis*, same date, to German Embassy, *Ibid.*, 1900, pp. 343, 355.

<sup>30</sup> Circular telegram to Am. representatives to Austria, Belgium, France, Germany, Great Britain, Italy and Portugal, Jan. 13, 1905, *Ibid.*, 1905, p. 1.



Respecting the inclusion of the administrative integrity of China in the general principle of the integrity of China, there has been no such unanimity of opinion. It has been claimed that the Open Door principle of the integrity of China does not include the administrative integrity of China. As illustrations, reference is made to the Chinese Salt Administration, to the Postal Service and the Maritime Customs Service, all of which are under foreign supervision. On the other hand, it is maintained that the administrative integrity is an integral and indispensable element of territorial entity and sovereignty, the lack of which will render the integrity of China hollow and ineffective. In the circular of July 3, 1900, John Hay did, as quoted above, expressly and specifically mention the preservation of the administrative entity of China as one of the objectives of his policy.<sup>51</sup>

In the dispatches for the observance of the neutrality of China during the Russo-Japanese War, it will be recalled, John Hay reiterated the inclusion of the administrative entity of China in his doctrine of the integrity of China:

" . . . the neutrality of China and in all practical ways her administrative entity shall be respected by both parties. . . . " <sup>52</sup>

In 1913, when President Wilson withdrew the support of the United States Government from the American Group in the Old Consortium, he based his

<sup>51</sup> *U. S. For. Rel.*, 1901, App., Affairs in China, p. 12; *Ibid.*, 1900, p. 299; see also Pres. McKinley's Message, Dec. 3, 1900, *Ibid.*, xiv; Moore, *Int. Law Digest*, Vol. 5, p. 510.

<sup>52</sup> *U. S. For. Rel.*, 1904, p. 2.

objection, as we have seen, on the ground that the reorganization loan touched the administrative integrity of China.<sup>33</sup> Notwithstanding the reversal of this policy of non-participation later, in 1916<sup>34</sup> and 1918,<sup>35</sup> the reëntrance of American finance into China, through membership in the New International Banking Consortium, was not meant to infringe upon or destroy the administrative integrity of China but rather to uphold and preserve it.

This interpretation of the Open Door Doctrine of the integrity of China as including the administrative integrity does not, however, preclude the possibility of active intervention in the finances of China in case of bankruptcy or insolvency. In such an unhappy contingency, the supervision or control necessitated by the situation would be undertaken, not in the spirit or with the intention to infringe or nullify the administrative integrity of China, but rather to uphold and preserve it with a view of restoring it eventually to the Chinese.

Further, the inclusion of the administrative integrity in the general principle of the integrity of China does not preclude the possibility of foreign supervision in the collection of revenues pledged as securities and the employment of foreign advisers to supervise the introduction of reforms as provided in the terms of a loan. When in the formation of the New International Banking Consortium the Government of Great Britain

<sup>33</sup> Statement issued to the press by Pres. Wilson, March 18, 1913, *U. S. For. Rel.*, 1913, pp. 170-171.

<sup>34</sup> *N. Y. Times*, Nov. 17, 1916, p. 17.

<sup>35</sup> *Ibid.*, July 30, 1918, p. 13.

asked whether the policy of maintaining the political independence and sovereignty of China was to preclude any such aforesaid possibilities,<sup>36</sup> the Department of State replied that the said policy did not preclude such possibilities.<sup>37</sup>

Hence, it is evident that, save in the exigency of a financial breakdown of the Chinese Government and in the collection of revenues pledged as securities and the employment of foreign advisers to supervise the introduction of reforms, as provided in the terms of a loan, the integrity of China includes, and applies to, the administrative integrity.

At the Washington Conference, February 6, 1922, the meaning of the integrity of China was given a definite expression, quite in conformity with the historical understanding of the principle, which will hereafter stand as the official and authoritative interpretation and understanding of the integrity of China. Article I of the Nine Power treaty respecting the principles and policies to be followed in relation to China, stipulates:

"The Contracting Powers, other than China, agree:

"(1) To respect the sovereignty, the independence, and the territorial and administrative integrity of China;

"(2) To provide the fullest and most unembarrassed opportunity to China to develop and maintain for herself an effective and stable government; . . ." <sup>38</sup>

The integrity of China as above defined consists,

<sup>36</sup> Brit. For. Off. to Am. Page, Aug. 14, 1918, *Consortium*, No. 3.

<sup>37</sup> Dept.'s note and memorandum to the French, British and Japanese Embassies, Oct. 8, 1918, *Ibid.*, No. 4.

<sup>38</sup> *Sen. Docs.*, 67th Cong. 2d Sess., No. 126, p. 895.

then, of her sovereignty, independence, territorial entity, and administrative integrity. As it is not possible to maintain the integrity of China without maintaining an effective and stable government in China which, in fact, is the foundation and assurance of her integrity, the stipulation of the Powers included the further provision of the fullest and most unembarrassed opportunity for China to develop and maintain an effective and stable government. This stipulation imports good-will, helpfulness, self-restraint and non-intervention. Yet it is to be understood that it does not preclude the possibility of intervention for violation or infringement of the treaty rights of the Powers—a right sanctioned in international law.

Applying this second principle, the Powers concluded the Treaty on Chinese Customs Tariff with a view to increasing the revenues of China,<sup>39</sup> as an effective and stable government must be founded on effective and stable revenues. Besides, they passed a resolution counseling China to reduce her army, largely controlled by the military governors of the Provinces and excessive in number for the needs of the country, and constituting a menace to the development of democracy in China, as well as a severe drain on the Chinese treasury, thus indirectly frustrating the establishment of an effective and stable government.<sup>40</sup>

Further, in order to strengthen the hands of the Chinese Government in the control of her own trans-

<sup>39</sup> *Sen. Docs.*, 67th Cong. 2d Sess., No. 126, pp. 897-901.

<sup>40</sup> Resolution regarding the Reduction of Chinese Military Forces, adopted Feb. 1, 1922, *Ibid.*, p. 908.

portation system, thereby contributing toward the development and establishment of an effective and stable government, in conjunction with the adoption of the resolution prohibiting unfair discrimination of any kind throughout the whole of the Chinese railways, the Powers participating passed a resolution, declaring their hope for the unification of the Chinese railways into a system under Chinese control with such foreign financial and technical assistance as might prove necessary in the interests of that system.<sup>41</sup>

Consistent with the principles of sovereignty and integrity, the neutrality of China, which is merely her sovereignty and integrity in war, is also to be respected. This is not only in conformity with John Hay's note of 1904 for the maintenance of the neutrality of China during the Russo-Japanese War, but is necessary in view of the tragic cases of the violation of this principle. In the Russo-Japanese War, 1904-1905, the war was virtually fought on the soil of China,—Manchuria. As a consequence, China had to transfer the lease of Port Arthur and Dalny and the South Manchuria Railway to Japan, thereby sowing the seed for the subsequent presentation of the Twenty-one Demands. Again, during the World War, in her campaign against the German stronghold in the Far East, Kiaochow, Japan landed her troops at Lungkow approximately one hundred and fifty miles north of Tsingtao and outside of the leased territory of Kiaochow, thereby violating China's sovereignty and neu-

<sup>41</sup> Resolution No. 8, adopted Feb. 1, 1922, *Sen. Docs.*, 67th Cong. 2d Sess., No. 126, p. 907; for discussion in Com. on Pacific and Far Eastern Questions, see *Ibid.*, p. 647.



trality. Consequently, China was compelled to yield Kiaochow and the former German rights in Shantung to Japan by the Treaty of Versailles, to which she was, however, not a party, thus giving rise to the celebrated controversy over the Shantung Question. Accordingly, in response to China's request for the acceptance of her Eighth Point presented at the Washington Conference respecting her rights in future wars to which she should not be a party,<sup>42</sup> the Powers, other than China, agreed "fully to respect China's rights as a neutral in time of war to which China is not a party." Conversely, as a fulfillment of a principle of international law, China declared on her part that "when she is neutral she will observe the obligations of neutrality."<sup>43</sup>

This principle of respecting China's sovereignty and integrity is further fortified by a voluntary declaration on the part of China to preserve her own territorial integrity. Inasmuch as it is self-evident that the Powers cannot effectively respect China's sovereignty unless she herself undertakes the obligation to preserve her own territorial integrity, her voluntary declaration, which constituted I-b of her Ten Points,<sup>44</sup> was put on record as a solemn undertaking of China to herself and to the world:

"China upon her part is prepared to give an undertaking not to alienate or lease any portion of her territory or littoral to any power."<sup>45</sup>

<sup>42</sup> *Sen. Docs.*, 67th Cong. 2d Sess., No. 126, pp. 100, 558-559.

<sup>43</sup> Art. VI of Nine Power Treaty, *Ibid.*, p. 896.

<sup>44</sup> *Ibid.*, p. 444.

<sup>45</sup> Feb. 4, 1922, *Ibid.*, p. 170.

A qualification, however, to the above definition of the integrity of China should be noticed. That is, valid commitments and agreements, however they might infringe upon the integrity of China, are to be considered as consequences of the legitimate exercise of sovereignty *ex contractu* and not inconsistent with the doctrine of the integrity of China. Hence, in the application of the fundamental principle of the integrity of China, in view of this qualification, a fundamental distinction was made between those impairments of China's sovereignty having treaty sanctions and those that have none. With respect to the former impairments, the principle of the integrity of China decrees recognition and respect, inasmuch as they are the consequences of legitimate exercise of sovereignty *ex contractu* on the part of China, however unfortunate they may be. Consequently, any modification thereof must proceed out of the free will of the parties contracting. In reference, however, to the limitations on China's sovereignty not sanctioned by treaty stipulations, in due deference to the fundamental principle of the integrity of China, they are regarded as unwarranted impairments and infringements of China's sovereignty and removable as soon as possible, save in the case where conditions in China justify infringement.

In consequence of this attitude, respecting extra-territorial jurisdiction, it was agreed to establish a commission of inquiry,<sup>46</sup> and as to the leased territories, it was determined that those occupied for the

<sup>46</sup> Resolution regarding Extraterritoriality in China, adopted Dec. 10, 1921, *Sen. Docs.*, 67th Cong. 2d Sess., No. 126, pp. 903-904.

maintenance of the balance of power, such as Waihaiwei and Kwangchowwan, might be restored under special conditions, and those held for strategic necessity, such as Kowloon and Port Arthur and Dalny, could not at present be relinquished.<sup>47</sup> With those limitations, however, imposed without the consent of China, the Powers conceded the withdrawal of the foreign post offices,<sup>48</sup> and the transfer to the Chinese Government of all alien radio stations not having the sanction of the Chinese Government.<sup>49</sup> In the case of the foreign armed forces, the Conference acknowledged the validity of China's contention as to their illegality, and resolved to investigate conditions as to the protection of foreign lives and properties.<sup>50</sup>

In recapitulation, it may be stated that the principle of the integrity of China is inherent in, and indispensable to, that of the equal opportunity of trade, and has been made a coördinate principle with that of equal opportunity ever since John Hay's circular note of July 3, 1900. Respecting the scope of the principle, it has been observed that the integrity of China covers not only China proper but also the outlying territories. With reference to the meanings of the integrity of China, it has been noticed that it includes the sovereignty, the independence, the territorial entity and the administrative integrity of China together with her neutral status in time of war to which she is not a party, and with the corollary of providing her the

<sup>47</sup> *Sen. Docs.*, 67th Cong. 2d Sess., No. 126, pp. 538-546, 759.

<sup>48</sup> Resolution adopted Feb. 1, 1922, *Ibid.*, p. 905.

<sup>49</sup> Resolution adopted Feb. 1, 1922, *Ibid.*, pp. 906-907.

<sup>50</sup> Resolution adopted Feb. 1, 1922, *Ibid.*, pp. 905-906.

fullest and most unembarrassed opportunity to develop and maintain for herself an effective and stable government; with the qualification, however, that all valid agreements and commitments made in consequence of legitimate exercise of sovereignty *ex contractu*, however unfortunate they may be, are to be regarded as legitimate consequences of the exercise of sovereignty and not inconsistent with the doctrine of the integrity of China.

## CHAPTER VII

### OPEN DOOR DOCTRINE AND SPHERES OF INFLUENCE

ONE of the questions often asked in relation to the Open Door Doctrine is: Whether it is reconcilable and consistent with the spheres of influence, or, conversely, is the practice of spheres of influence reconcilable and consistent with the Open Door Doctrine?

It will be recalled, the Open Door Doctrine was enunciated to counteract the régime of the spheres of influence, which menaced the reign of the equal opportunity of trade and the continuance of the integrity of China.<sup>1</sup> This being its purpose, it is logical to conclude that the Open Door Doctrine and the spheres of influence are antagonistic, irreconcilable and antithetical each to the other. To put it in another way, one is the foe and antithesis of the other.

Yet, when John Hay sent the first circular note of September 6, 1899, setting forth the doctrine of equal opportunity of trade, spheres of influence were already in existence,—Russia in North China, Germany in Shantung and the Yellow River Basin, Great Britain in the Yangtze Valley, Japan in Fukien and France in the Southwestern Provinces bordering on Tongking.

<sup>1</sup> *Vide supra*, chap. on The Origin of the Doctrine.



Recognizing the *fait accompli*, though with profound regret, but deeming it possible to maintain the Open Door within the various spheres and leased territories, John Hay set forth his three provisions for the maintenance of the Open Door Doctrine.<sup>2</sup>

Interpreting the doctrine of equal opportunity of trade as postulated by John Hay, it can be readily seen that his principle did not preclude existence of the spheres of influence or interest. In fact, the recognition of the existence of the spheres was clearly implied in his correspondence. Each government addressed was requested to make a declaration in favor of the application of the aforesaid three provisions "in its respective spheres of interest or influence." The first of the three provisions was that each government in its respective sphere would in no wise interfere with any treaty port or vested interests within any so-called "sphere of interest" or leased territories it might have in China. The second of the three provisions stipulated that the Chinese treaty tariff of the time being should be levied and collected by the Chinese Government in all such ports as were within the so-called spheres of interest, excepting the free ports. The third of the three articles provided that the uniformity of treatment in harbor dues and railway charges within or through such spheres should be observed. Thus, it is clear that in all these three stipulations, devised to safeguard and maintain the reign of equal opportunity of trade in China, the

<sup>2</sup> Sec. Hay to Amb. Choate, Sept. 6, 1899, *U. S. For. Rel.*, 1899, p. 132.

existence of spheres of influence was recognized and given due consideration.

Again, when the British Government expressly mentioned the spheres of interest, now held or to be held in China, in its reply,

“ . . . Her Majesty's Government will be prepared to make a declaration in the sense desired by your Government in regard to the leased territory of Weihai Wei and all territory in China which may hereafter be acquired by Great Britain by lease or otherwise, and all spheres of interest now held or that may hereafter be held by her in China, . . . ”<sup>3</sup>

John Hay did not make any exception or objection, but gave his tacit acquiescence.

What John Hay opposed was, not so much the existence of spheres of influence which had been already created before the enunciation of the doctrine, as the closing of the doors of the spheres to the trade of the world or the assertion of claims to exclusive rights within the spheres. The three provisions, as postulated, were designed to keep the doors open in the various spheres through non-interference with the treaty ports, the recognition of vested interests, the maintenance of the Chinese treaty tariff and the uniformity of harbor dues and railway charges. In short, they were to maintain the Open Door and secure equal treatment of foreign merchants within the various leased territories and spheres of influence.

Nevertheless, in the course of experience, the practice of spheres of influence has been found to be

<sup>3</sup> Lord Salisbury to Amb. Choate, Nov. 30, 1899, *U. S. For. Rel.*, 1899, p. 136.

quite inconsistent and incompatible with the Open Door Doctrine. Of the five features or characteristics constituting and distinguishing the spheres of influence in China,—namely, leased territories, strategic and commercial railways, right of first option, declarations of non-alienation, and international agreements,—some are distinctly antagonistic, irreconcilable and antithetical to the Open Door Doctrine. Respecting the leased territories which served as the bases of defense and *points d'appui* for the spheres of influence, they do not interfere with the Open Door Doctrine as long as the ports of trade located therein remain open to all merchants and equal treatment in tariff levies and transportation matters is maintained. In reference to the declarations of non-alienations earmarking the regions for preëmption, they do not seriously hinder the application of the Open Door Doctrine, so long as they do not give rise to the disruption of China, or to the closing of the various regions to the trade of the world. With respect to the international agreements demarcating the various provinces of China for exclusive exploitation, particularly in railway and mining enterprises, which, as we have seen, was one of the ways of safeguarding and bringing into being the spheres of influence in China, while violating the spirit of the Open Door Doctrine, they do not constitute a serious or immediate menace to the application of the doctrine, as long as they do not in effect interfere with the fundamental principles of the doctrine.

But, in regard to the rights of priority or option,

they do seriously interfere with the successful application of the doctrine. For it is clear that as long as one Power holds any rights of option, or, what is worse, any rights of monopoly, in any region or industry in China, the other Powers will be excluded from equal opportunity of participation or competition. That is, any right of option or monopoly constitutes a closed door—a negation of the Open Door Doctrine.

Moreover, the toleration of such rights of option or monopoly in any region or industry in China will cause other Powers discriminated against to seek due compensation or other exclusive or preferential privileges and rights in other regions or industries. In other words, it will lead to a general scramble for concessions as was witnessed in 1898, 1908, and 1913. The logical consequence of such a situation will be the closing of the doors of the various regions or of the different industries to the trade of the world, and, what is worse, the complete wreck of the policy of the equal opportunity of trade.<sup>4</sup>

Again, in respect of railways, which are at times projected for the exploitation of the various spheres, the grant of the railway concessions to any Power will mean the exclusion of the other. That is to say, the Power receiving the concession will finance the railway, supply the necessary experts and materials, and possibly also control the railway, to the exclusion of the

<sup>4</sup>Min. Conger to Sec. Hay, Jan. 29, 1902, Hay to Conger, Feb. 1, Hay's circular memorandum respecting Manchuria, Feb. 1, sent to the U. S. representatives in Austria, Belgium, China, France, Germany, Great Britain, Italy, Japan, Netherlands, Russia, and Spain, *U. S. For. Rel.*, 1902, pp. 273-276; *vide supra*, chap. on The Growth of the Doctrine.

others. This situation leads to some inevitable consequences. The Power building the railway and holding the control thereof will have a more dominating influence than the other Powers in the region through which the line runs, thus creating a general superiority of influence. Another result is that the Powers excluded and discriminated against will seek concessions in other regions of China, thereby hoping to preserve the balance of power, but leading to the frightful struggle for concessions.<sup>5</sup>

Thus it is manifest that these two characteristics—the right of option and the exclusive rights in railway concessions—are incompatible and incongruous with the Open Door Doctrine, and hence the practice of the sphere itself is irreconcilable with the Doctrine.

Because of this incompatibility and antithesis, the New International Banking Consortium was formed in 1920, purporting to demolish the economic barriers erected by the institution of the spheres. While paying due respect to vested interests, as was stipulated in the original proposals of John Hay, it proposes to pool all options and concessions in which no substantial headway has been made :

“This Agreement relates to existing and future loan agreements which involve the issue for subscription by the public of loans to the Chinese Government. . . . Existing agreements relating to industrial undertakings upon which it can be shown that substantial progress has been made may be omitted from the scope of this Agreement. . . .

“This Agreement is made on the principle of complete

<sup>5</sup> *Vide supra*, chap. on The Practical Assertion of the Doctrine.



equality in every respect between the parties hereto and each of the parties hereto shall take an equal share in all operations . . . and the parties hereto shall conclude all contracts with equal rights and obligations as between themselves and each party shall have the same rights, privileges, prerogatives, advantages, responsibilities and obligations of every sort and kind.”<sup>6</sup>

The significance of this measure cannot be overestimated. It means that the financial groups of the Powers joining the New Consortium should surrender their prior claims or rights to first options in all the loans that come within the scope of the new Consortium. Thus, the New Consortium obliterates one of the leading features of the spheres of interest—the right of first option or the claim of priority—which has been found to be inconsistent and incompatible with the application of the Open Door Doctrine. This likewise indicates that while permitting the economic dykes constructed by the spheres of interest to remain intact, the New Consortium placed an injunction on any further walls of exclusion that tend to block the common interests of the Powers as well as China’s economic development.

Moreover, in pooling options and concessions in railways, the New Consortium tacitly and impliedly introduces the principle and practice of the internationalization of Chinese railways. When materialized, this will obliterate another feature of the spheres of influence or interest—the exclusive enjoyment and control of the railway concessions in a given region of

<sup>6</sup> *Consortium*, No. 34, pp. 68-69.

China—and thus has the salutary effect of establishing great roads of freedom running through several spheres of interest and promoting the untrammelled economic development of China and the general well-being of the Powers concerned.

Thus, the New Consortium, by extinguishing the two features of the spheres of influence—the right of option and the exclusive enjoyment of railway concessions—which have been found to be inconsistent and incompatible with the Open Door Doctrine, and by pooling the options or concessions, existing or future, in which no substantial progress has been made, tends to break down and demolish the walls of the spheres. To this end, it has been said:

“The United States Government proposed . . . that not only future options that might be granted but concessions held by individual banking groups in which substantial progress had not been made, should, so far as feasible, be pooled with the Consortium; that working on these two principles, the operations of the Consortium would serve to prevent for the future the setting up of special spheres of influence in the continent of Asia.”<sup>1</sup>

In addition, taking advantage of the occasion of the Washington Conference, held November 12, 1921-February 7, 1922, the Powers assembled undertook to prevent the creation of future spheres of influence as being inconsistent and incompatible with the Open Door Doctrine. In the Nine Power Treaty relating to the principles and the policies concerning China, on

<sup>1</sup> Thomas W. Lamont, *Preliminary Report on the New Consortium for China*, pp. 6-7.

February 6, 1922, the practice of the spheres was declared to be incongruous with, and antithetical to, the Open Door principle of equal opportunity of trade.

"With a view to applying more effectually the principles of the Open Door or equality of opportunity in China for the trade and industry of all nations, the Contracting Powers, other than China, agree that they will not seek, nor support their respective nationals in seeking:

"(a) any arrangement which might purport to establish in favour of their interests any general superiority of rights with respect to commercial or economic development in any designated region of China."<sup>8</sup>

Commenting on the provision, Sir Arthur J. Balfour remarked in substance:

"The words 'general superiority of rights with respect to commercial or economic development in any designated region' were words happily designed . . . to describe the system of spheres of influence; and the repudiation of that system was as clear and unmistakable as could possibly be desired."<sup>9</sup>

Again, explaining the meaning of the stipulation, Secretary Charles E. Hughes stated:

"Clause (a) was not limited to the mere seeking of a concession which might be in the nature of a monopoly or preference with respect to a particular sphere of enterprise; it had a wider range. It took into account the facts with which all were familiar in connection with the recent history of China. It provided that the powers other than China represented at the conference should not seek, nor support their nationals in seeking, any arrangement which might purport to establish in

<sup>8</sup> Art. III, *Sen. Docs.*, 67th Cong. 2d Sess., No. 126, p. 895.

<sup>9</sup> In Com. on Pacific and Far Eastern Questions, Jan. 17, 1922, *Ibid.*, p. 616.

favor of their interests any general superiority of rights with respect to commercial or economic development in any designated region of China. That was not limited to the question of a particular concession or enterprise, but it had the purpose of precluding the efforts by which, in a designated region, one power, or the nationals of that power, might have a superior position, broadly speaking, with respect to enterprises. It had direct relation to what had been known in the past as spheres of interest, which might be stated to be spheres of exclusion of other interests. In other words, it negated the endeavor to secure not a particular concession or grant, or the facility for concluding a particular enterprise, whatever the scope of that enterprise might be, but a status with respect to a designated region which would give general superiority or opportunity, and thus conflict with the open door principle.”<sup>10</sup>

It is clear, therefore, that the aforesaid stipulation is meant to place an injunction on any further practice of the spheres of influence or interest, having defined this as being contrary to the Open Door principle of equal opportunity, and recognizing that it is not feasible to countenance the superior, preferential or exclusive rights of exploitation of any Power in any region of China and yet have equal opportunity of trade or participation therein. In other words, the contention of John Hay in the protest of 1902 against the Russian demand for the grant of preferential or monopolistic rights in the economic development of Manchuria is now incorporated in the treaty provisions.

Moreover, in order to outlaw the establishment of spheres of influence, not only by the direct efforts of

<sup>10</sup> At same session, *Sen. Docs.*, 67th Cong. 2d Sess., No. 126, p. 621.

the Powers, as provided in the above stipulation, but also by the agreements of their nationals with each other, it is further stipulated:

"The Contracting Powers agree not to support any agreements by their respective nationals with each other designed to create Spheres of Influence or to provide for the enjoyment of mutually exclusive opportunities in designated parts of Chinese territory."<sup>11</sup>

That is to say, covering a situation that is not touched upon by the first provision, this clause relates to those agreements between nationals and the support of such agreements by their Governments, and prohibits the repetition of such international agreements as the Anglo-German agreement of 1898 between the bankers concerned, defining the Yangtze Valley as the British sphere and the Shantung Province and the Yellow River Basin as the German sphere.<sup>12</sup>

Concluding, it may be stated that the practice of spheres of influence or interest is incompatible with and antithetical to the Open Door Doctrine. When John Hay enunciated the doctrine, the practice of spheres already existed, and so he recognized the *fait accompli* and sought to maintain the Open Door within the leased territories and spheres of influence. In the course of experience, it was, however, discovered that the preferential rights of option and the exclusive enjoyment and control of the railway concessions in any designated regions of China, which constituted

<sup>11</sup> Nine Power Treaty, Art. IV, *Sen. Docs.*, 67th Cong. 2d Sess., No. 126, p. 896.

<sup>12</sup> Remarks by Del. Elihu Root, in Com. on Pacific and Far Eastern Questions, Jan. 21, 1922, *Ibid.*, p. 683.



some distinctive features of the spheres, rendered the application of the Open Door Doctrine difficult and practically impossible. Hence, the rise and formation of the New International Banking Consortium, which, pooling all future options and concessions and existing ones in which no substantial progress has been made, and introducing the internationalization of the Chinese railways, tends to extinguish the baneful features of the practice of spheres of influence, to demolish the walls of the spheres, and to prevent further aggravation of the régime of foreign control in China. Finally, in the Nine Power Treaty, the practice of the spheres of influence is outlawed as being contradictory to the Open Door Doctrine.

## CHAPTER VIII

### OPEN DOOR DOCTRINE AND CHINESE RAILWAYS

THE question has often been asked: Does the Open Door Doctrine apply to railways in China? Is the principle of equal opportunity applicable to Chinese railways?

As a rule, railways are not expressly mentioned in the international agreements for the maintenance of the Open Door principle of equal opportunity. As illustrations, in the Anglo-Japanese Treaties of Alliance of 1902, 1905, and 1911, the Root-Takahira Agreement of 1908, and the Lansing-Ishii Agreement of 1917, mention was made of equal opportunity for "commerce and industry" in China. Railways were omitted, unless by a liberal construction they were included under the category of "commerce and industry."

On the other hand, as railways affect the economic life of any territory through which they traverse, the trade of the regions is liable to be subject to the superior influence of the Power or Powers holding the control of the railways, unless the Powers obtain equal share in the railways. Further, as trade follows loans, the grant of the exclusive right of financing railway

concessions will result practically in the exclusive enjoyment of the opportunity to supply the materials, experts, and other needs of the railways, thus frustrating the application of the Open Door principle of equal opportunity of trade. Hence, to maintain an effective condition of equal opportunity of trade, the railway loans must be shared on basis of equality.

This being so, it is to be stated that the Open Door Doctrine does apply to railways in China, with the reservation, however, that vested interests are to be respected. This conclusion conforms with the original doctrine as set forth by John Hay and the subsequent development and application of the principles. As has been observed, the first of the three provisions formulated by John Hay in his first circular note of September 6, 1899, was that each Government "will in no way interfere with any treaty port or any vested interest within any so-called 'sphere of interest' or leased territory it may have in China."<sup>1</sup> Thus vested interests of whatever nationality and in whatever leased territories or spheres of influence are to be respected. Applying this principle to railways, it cannot mean other than that those lines already constructed, or under construction, or in which substantial progress has been made, should be accorded due recognition and respect.

Granting this reservation, the Open Door Doctrine applies to railways just as it does to other forms of economic activity. In his protest against the Russian demand in 1902 for the exclusive economic de-

<sup>1</sup> *U. S. For. Rel.*, 1899, p. 129.

velopment of Manchuria, as will be remembered, John Hay made the express mention of railways as being included within the scope of his protest and doctrine.<sup>1</sup>

Again, in his proposal for the neutralization of the Manchurian railways, Secretary Knox put emphasis on his plan of internationalization as "perhaps the most effective way to preserve the undisturbed enjoyment by China of all political rights in Manchuria and to promote the development of those provinces under a practical application of the policy of the open door and equal commercial opportunity,"<sup>2</sup> indicating that the Open Door Doctrine does apply to railways in China.

Moreover, in the organization of the New International Banking Consortium, special stress is laid on the necessity of pooling the options and concessions in railways.<sup>3</sup> The United States Government proposed to respect the vested interests of the existing railways and those in which substantial progress had been made, but at the same time to pool or internationalize all future options and existing concessions in railways in which substantial progress had not been made. The conclusion can therefore be drawn that with the exception of the reservation to respect vested interests, or, to put it in terms of railways, to recognize vested interests in lines already constructed, under construction, or in which substantial progress has been made,

<sup>1</sup> Hay's circular memorandum on Manchuria, Feb. 2, 1900, *U. S. For. Rel.*, vol. 2, p. 26.

<sup>2</sup> See Knox to Amb. Reid, Nov. 8, 1900, *ibid.*, vol. 2, p. 234.

<sup>3</sup> Thomas W. Lamont, *Promoting Reform in the New Consortium for China*, pp. 5-6.

the Open Door Doctrine of equal opportunities does apply to railways in China.

This being so, the next question naturally arises: How can the Open Door Doctrine of equal opportunity be applied to railways in China?

The Open Door principle of equal opportunity presupposes competition. Where the opportunity is unlimited, there is no need of competition, every one is entitled to avail oneself thereof; but where the opportunities are limited, equal opportunity can be maintained only through free competition. As it is possible and wholesome alike to contestants and to the public to admit free competition in ordinary forms of economic activities, and as competition is generally held to be the life of trade, it is plain that the Open Door principle of equal opportunity of trade, in ordinary cases, presupposes and takes for granted free competition on a basis of equality. Hence, John Hay's words:

"We believe that 'a fair field and no favor' is all we require, . . . and the result may safely be left to American genius and energy." <sup>5</sup>

But railways are economic monopolies. If they are granted to one Power they cannot be granted to another in the same region. That is, if they are held by any Power or Powers, they become the exclusive possessions of them. Hence, in any contest for rail-

<sup>5</sup> Speech of John Hay, in reply to the toast of "Our recent diplomacy" at a dinner of New York Chamber of Commerce, Nov. 19, 1901, copy in Library of Congress, pp. 8-9.



way concessions, there can be only one final winner, which involves the shutting out of the unsuccessful. And should the Power or Powers winning the concession or concessions hold by contract any control over the line or lines, when constructed and in operation, the said control or management would be liable, if not bound, to enhance the general commercial influence of the favored Power or Powers, to the exclusion of all others.

Railways being economic monopolies, the general rule of free competition which underlies the principle of the Open Door Doctrine of equal opportunity, while practicable and wholesome in ordinary economic activities of life, meets a stone wall in the economic law governing railways. And it is here that the Open Door principle of equal opportunity of trade breaks down and becomes impracticable and inapplicable, unless some solution in accordance with economic laws can be found to meet the situation.

Where and when railway concessions are subject to competition, moreover, there can be only three possible outcomes. The first is the mutual destruction of one another's ends. The contests for the Peking-Hankow and the Hankow-Canton railway concessions, as we have seen, clearly demonstrate the truth that such unwholesome international cut-throat competition is bound to result in the destruction of the ends of all claimants excepting those of the final winner.

Aside from the destruction of mutual aims, the collateral effect upon China and the world is most disastrous. It will be recalled that it was the general

scramble for leases and concessions in 1898 that brought to pass the Boxer Uprising of 1900, and necessitated the enunciation of the Open Door Doctrine by John Hay in 1899 and 1900. Again, it was the second struggle for concessions in 1908 that brought about the Chinese Revolution of 1911 and the neutralization proposal of Secretary Knox.

The second possible outcome is the establishment of spheres of influence. Partly to avoid cut-throat competition and partly to compensate losses due to gains of the successful contestant, the unsuccessful Powers, driven by the dynamic of the balance of power or international rivalry, were constrained to seek railway concessions in other regions of China, thus demarcating the territory of China into various spheres and closed areas as far as railway construction was concerned. This was accomplished alike by the grant of preferential rights of option in designated regions of China and by international agreements between the Powers themselves or their nationals dividing China's territory into spheres for railway and other enterprises.

The third possibility is international coöperation or combination. Where competition is not possible or wholesome, the only solution lies either in coöperation or combination, or both. None of the contestants will relish being excluded from the benefits of concessions, or having their cherished aims defeated by unwholesome competition. Aside from the establishment of spheres of influence, the only other alternative is to coöperate, and in some cases, even to combine, thus

preserving the aims of one another and sharing the benefits of the concession in common. As is well said:

"If competition is ruinous to all parties, all parties must stop competing. If it finds no natural limit, it must be artificially limited; it must end in combination. And the moment you have established an effective combination, you have introduced the principle of monopoly."<sup>6</sup>

These three being the only solutions—international cut-throat competition, the practice of spheres of influence, or international coöperation and combination,—it is evident that exponents of the Open Door Doctrine must choose one of the three. It has been seen that international cut-throat competition is detrimental and ruinous to the contestants, that it vitiates the principle of equal opportunity, and menaces the integrity of China, as was seen in the Boxer Uprising and in the Chinese Revolution.

International cut-throat competition being destructive and incompatible with the principles of the Open Door Doctrine, the next method to consider is the practice of spheres of influence. It has, however, been noticed that this practice is inconsistent with the Open Door Doctrine, infringing as it does on the integrity of China and frustrating the application of equal opportunity of trade. In fact, it was the rise of the régime of spheres that called forth John Hay's enunciation of the doctrine, and it was the irreconcilable and incompatible nature and practice of the régime of spheres with the Open Door Doctrine that

<sup>6</sup> A. T. Hadley, *Railroad Transportation*, p. 74.

gave rise to the New International Banking Consortium and finally to the rejection of this system by the Powers signatory to the Nine Power Treaty.

The practice of spheres being inconsistent and irreconcilable with the principles of the Open Door Doctrine, in order to uphold the same in the case of Chinese railways the exponents of the doctrine have one and only one method to choose, and that is, international coöperation and combination, or in actual operation, internationalization of Chinese railways. With the adoption of this policy, the baneful practice of international struggle for concessions, ruinous alike to the Powers and China, and particularly antithetical to the Open Door Doctrine, can be prevented, thus assuring better prospects for a condition of equal opportunity and the maintenance of the integrity of China. Further, the unwelcome practice of spheres of influence, inconsistent and antithetical to the Open Door, and harmful alike to the Powers and to China, can be outlawed, thus breaking down the economical barriers and admitting foreign capital and enterprise to all parts of China unhindered and untrammelled by the demarcation of spheres. Finally, the international coöperation and combination as manifested in the policy of internationalization of Chinese railways will secure to the Powers the true conditions of equal opportunity of trade by giving to the participating Powers equal opportunity in the supply of materials, experts and other benefits consequent upon the transaction of a railway loan, and equal influence in the region or regions traversed by the line or lines.

To China, provided the contract is properly made and her sovereign rights thereby safeguarded, it offers better prospects of insuring her integrity and sovereignty. In short, internationalization is the only way in which the Open Door can be successfully applied to Chinese railways.

It was for this reason that Secretary Knox proposed the internationalization and commercial neutralization of the Manchurian railways.<sup>7</sup> It was also for the same reason that the New International Banking Consortium proposed to coöperate and combine by pooling all future operations and concessions, and existing ones in which no substantial progress had been made, as stipulated in the agreement of the New Consortium.<sup>8</sup>

Thus, reasoning from the economic and political forces working in regard to railway concessions in China, the neutralization plan of Secretary Knox, and the policy of the New International Banking Consortium with respect to railways, it is clear that the Open Door Doctrine can be applied to railways in China only through the path of internationalization. The thesis may, therefore, be offered that henceforth the internationalization of railways in China, as long as the Open Door Doctrine is applied to them, will become a new formula, or corollary, to the fundamental principles of the doctrine.

It is further to be observed that the policy of inter-

<sup>7</sup> Statement given to the press, Jan. 6, 1910, *U. S. For. Rel.*, 1910, p. 244.

<sup>8</sup> Text of the China Consortium Agreement, Oct. 15, 1920, Art. 4, *Consortium*, No. 34; *Bau, For. Rel. of China*, chaps. on the New International Banking Consortium.



nationalization is to be applied not only to railways in China, but also to any other public utilities or governmental concessions possessing the same characteristics and nature as those of railway concessions. Where international competition is not possible or wholesome, where the defeated contestants will surely be driven by international rivalry or the balance of power to seek compensations or counterbalancing concessions in other regions of China, thus giving rise to the baneful practice of spheres of influence, the policy of internationalization is the only way in which the Open Door Doctrine can be successfully applied.

Meanwhile, with the rise of the new policy of the internationalization of railways and other public and basic industries in China falling within the scope of the New International Banking Consortium, China is confronted with the problem of accepting or rejecting the policy of internationalization. The decision may depend upon whether the policy of internationalization includes only international finance and competitive supply of experts and materials, or also connotes international administration and hence control. This remains to be seen in contracts to be concluded. International finance, broadly speaking, nevertheless, should be permitted, being beneficial to China and conducive to the maintenance of the Open Door Doctrine; international administration and control, however, should not be countenanced any further than is absolutely necessary, since it involves foreign domination of China's industry and commerce, and affects her political and strategic security. While foreign

technical experts and administrative assistants might be employed, executive control of railways should not pass into the hands of an international board of control, but should always be in the hands of the Chinese.

## CHAPTER IX

### OPEN DOOR DOCTRINE AND JAPAN'S SPECIAL INTEREST

ANOTHER question which may be raised in regard to the Open Door Doctrine is: How it can be reconciled to Japan's special interest in China?

Japan's special interest in China can be aptly grouped into two categories: First, her special claim in South Manchuria and Eastern Inner Mongolia in particular, and, second, her special position in relation to China in general.

Japan's claim to special interest in South Manchuria and Eastern Inner Mongolia in particular came to the notice of the Powers on the eve of the formation of the Old Sextuple Consortium. In proceeding to sign this agreement, on June 18, 1912, regarding the reorganization loan to China, the Japanese Representative made the declaration which was recorded in the minutes of the Interbank Conference held at Paris, asserting Japan's special claims in South Manchuria and Eastern Inner Mongolia:

" . . . the Japanese bank declared that it takes part in the loan on the understanding that nothing connected with the projected loan should operate to the prejudice of the special rights and interests of Japan in the regions of South Manchuria and of

the eastern portion of inner Mongolia adjacent to South Manchuria." <sup>1</sup>

The Russian Representative made a similar declaration regarding North Manchuria, Mongolia and Western China:

"The Russian group declared that it takes part in the loan on the understanding that nothing connected with the projected loan should operate to the prejudice of the special rights and interests of Russia in the regions of northern Manchuria, Mongolia and western China." <sup>2</sup>

In response to these reservations, the other contracting parties declared their inability to discuss the question:

"The British, German, French, and American groups stated that they were not in a position to express their views upon either of these declarations upon the ground that they were not competent to deal with political questions." <sup>3</sup>

Expressing the view of the Department of State in regard to the Japanese and Russian reservations, the Acting Secretary of State declared:

"The Department understands that this reservation refers only to such special interests and rights as arise out of treaties and agreements with China, in which understanding the British Government concurs." <sup>4</sup>

<sup>1</sup> Amb. Herrick to Sec. Knox, June 13, 1912, *U. S. For. Rel.*, 1912, p. 137.

<sup>2</sup> Herrick to Knox, *op. cit.*, Acting Sec. of State to Am. Min. in China, April 8, 1912, *Ibid.*, pp. 124, 137.

<sup>3</sup> Herrick to Knox, *op. cit.*

<sup>4</sup> Act. Sec. of State to Am. Min. in China, April 8, 1912. *Ibid.*, p. 124.

Thus, it is seen that in response to the Japanese assertion of special interests in Manchuria and Mongolia, the Department of State took the attitude, consistent with the Open Door Doctrine, that such special interests as claimed could derive their sanction and recognition only from the treaties and agreements with China, as a consequence of the legitimate exercise of sovereignty *ex contractu* on the part of China. Holding this view, it is evident that the Department of State recognizes no exclusive or monopolistic rights of Japan or Russia and no impairments of China's sovereignty other than that which is provided in the treaties and agreements with China. Hence, it is reasonable to state that, as the Open Door Doctrine recognizes vested interests and treaty rights, the recognition of Japan's special interest in South Manchuria and Eastern Inner Mongolia as stipulated in treaties and conventions with China does not conflict with the application of the Open Door Doctrine.

Subsequently, in the formation of the New International Banking Consortium, Japan again asserted the same claim:

" . . . all the rights and options held by Japan in the regions of Manchuria and Mongolia, where Japan has special interests, should be excluded from the arrangements for pooling provided for in the proposed agreement. This is based on the very special relations which Japan enjoys geographically, and historically, with the regions referred to, and which have been recognized by Great Britain, the United States, France and Russia on many occasions." <sup>5</sup>

<sup>5</sup> Odagiri to Lamont, June 18, 1919, *Consortium*, No. 8.



As Russia's influence has temporarily ebbed from her sphere of interest, in consequence of the Soviet Revolution of 1917 and the collapse of the Czaristic régime, Japan laid claim to the whole of Manchuria and Mongolia, including the Russian sphere. Upon the objection of Great Britain and the United States<sup>6</sup> to the Japanese claim, Japan reduced her claim for the whole of Manchuria and Mongolia to only South Manchuria and Eastern Inner Mongolia, thus limiting the area of Japan's special interest. In other words, she put in a claim to special interest in South Manchuria and Eastern Inner Mongolia, as she had done when proceeding to sign the Sextuple Agreement of the Old Consortium.<sup>7</sup>

In response, the Department of State declared that such a measure would revive the doctrine of the spheres of influence even in a worse form than was followed during the days when China was on the brink of disintegration:

"... it considers that from the viewpoint, either of the legitimate national feeling of China or of the interests of the Powers in China it would be a calamity if the adoption of the Consortium were to carry with it the recognition of a doctrine of spheres of interest more advanced and far-reaching than was ever applied to Chinese territory even in the period when the break-up of the Empire appeared imminent."<sup>8</sup>

At the same time, however, the Department of State assured the Japanese Government that the vested in-

<sup>6</sup> Memo. of Dept. of State and Brit. For. Off., July 30, Aug. 11, 1919, *Consortium*, Nos. 13, 14.

<sup>7</sup> Memo. of Jap. Embassy at Washington, Aug. 27, 1919, *Ibid.*, No. 15.

<sup>8</sup> Memo., Oct. 28, 1919, *Ibid.*, No. 16.

terests and even the extensions thereof in these regions would be excluded from the scope of the Consortium:

"This wording plainly excludes those enterprises which are already developed and thus constitutes vested proprietary interests . . . and may fairly be interpreted to exclude likewise the existing options for the extension of railways already in operation . . ." <sup>9</sup>

Likewise, the British Government made a reply similar in opinion to that of the United States Government, adding, however, that in view of the strategic location in relation to Peking, of Eastern Inner Mongolia, whose southern boundaries extended and practically enveloped the capital of China, the reservation of such a sphere of influence would be irreconcilable with the principle of the maintenance of China's independence and territorial integrity.<sup>10</sup>

In response to the remonstrances of the United States and Great Britain, Japan changed the ground of her contention. She denied that the reservation was prompted by the desire "of making any territorial demarcation involving the idea of economic monopoly or of asserting any exclusive political pretensions or of affirming a doctrine of any far-reaching sphere of interest." She, however, contended that she had special interests in South Manchuria and Eastern Inner Mongolia, because of strategic necessities and economic relation:

<sup>9</sup> Memo., Oct. 28, 1919, *Consortium*, No. 16.

<sup>10</sup> Memo., Nov. 19, 1919, *Ibid.*, No. 17.

"From the nature of the case, the regions of South Manchuria and Eastern Inner Mongolia which are contiguous to Korea stand in very close and special relation to Japan's national defense and her economic existence. Enterprises launched forth in these regions, therefore, often involve questions vital to the safety of the country. This is why Japan has special interest in these regions and has established there special rights of various kinds."<sup>11</sup>

She offered instead, a revised formula of reservation retaining to herself the power of veto, or freedom of action, in case of loans affecting South Manchuria and Eastern Inner Mongolia calculated to menace the economic life and national defense of Japan, appending a list of Japanese Railways to be excluded from the scope of the Consortium.<sup>12</sup>

Replying to Japan's new basis of contention, the Department of State declared that in view of the general recognition accorded to the right of national self-preservation and further to Japan's special interest in China as embodied in the Lansing-Ishii Agreement of September 2, 1917, there was no real need for a reservation even in the form of the revised formula, pointing out meanwhile the inconsistency and the absence of necessity for including in the reserved list the projected line from Taonanfu to Jehol and thence to the seacoast, which was not essential to the national safety or economic existence of Japan.<sup>13</sup>

<sup>11</sup> Memo. of Jap. Embassy at Washington, March 2, 1920, *Consortium*, No. 18.

<sup>12</sup> *Ibid.* A similar communication was handed to the Brit. For. Off. on March 16, 1920, *Ibid.*, No. 20.

<sup>13</sup> Memo., March 16, 1920, *Ibid.*, No. 19. Also see Brit. reply, March 19, 1920, *Ibid.*, No. 21.

Finally, a solution was reached at Tokio consisting of the transference to the New Consortium of the line from Taonanfu to Jehol and another line from any point on the Taonanfu-Jehol Railway to a seaport and of the exclusion of the other railways as enumerated below from the scope of the Consortium, and of the engagement on the part of Japan to withdraw all reservations:

"We have now the honor to inform you that certain points in the Agreement and in the operations of the proposed Consortium, hitherto somewhat obscure, having been cleared up to the satisfaction of our Government and of ourselves, we are now able in accordance with the instructions of the Japanese Government to withdraw our letter dated 18th June last and announce that, conjointly with the American, British and French Banking Groups and on like terms with them, we will accept the Consortium agreement. We beg at the same time to express our hearty concurrence with the general ideas and objects of the Consortium in respect to China." <sup>14</sup>

"Inasmuch as some questions have arisen during our discussions as to the status of specific railway enterprises contemplated or actually begun in Manchuria and Mongolia, we hereby confirm that we have agreed with you as follows:

"(1) that the South Manchurian Railway and its present branches, together with the mines which are subsidiary to the railway, do not come within the scope of the Consortium;

"(2) that the projected Taonanfu-Jehol Railway and the projected railway connecting a point on the Taonanfu-Jehol Railway with a seaport are to be included within the terms of the Consortium Agreement;

<sup>14</sup> N. Kajiwara, head of the Jap. Group to Lamont, representative of Am. Group, May 11, 1920, *Consortium*, No. 29.

"(3) that the Kirin-Huining, the Chengchiatun-Taonanfu, the Changchun-Taonanfu, the Kaiyuan-Kirin (via Hailung), the Kirin-Changchun, the Sinminfu-Mukden and the Ssu-ping kai-Chengchiatun Railways are outside the scope of the joint activities of the Consortium."<sup>15</sup>

Thus, it is observed that Japan's special interest in South Manchuria and Eastern Inner Mongolia has been interpreted to mean vested interests including necessary extensions thereof, or special interests or rights as provided in the treaties or agreements with China. So far as this is the interpretation, there can be no conflict between the Open Door Doctrine and Japan's special interests in the aforesaid regions; for the Open Door Doctrine, as has been witnessed, accords due recognition and respect to vested interests and to the rights and interests as stipulated in treaties and agreements with China consequent upon the legitimate exercise of sovereignty *ex contractu* on the part of China.

Again, it is noticed that Japan's special interests in South Manchuria and Eastern Inner Mongolia connote her strategic security and economic well-being in relation to these regions. Interpreted as such, the principle is embodied in that of self-preservation or self-defense, which is universally recognized and undoubtedly implied in the Open Door Doctrine, it being plain that the Doctrine cannot postulate the integrity of China as one of its fundamental principles without at the same time setting forth the reciprocal

<sup>15</sup> Lamont to Kajiwarra, same date, *Consortium*, No. 30. Japan withdrew the revised Formula on March 16, *Ibid.*, No. 22.



principle of respecting the integrity and hence the strategic security of other states. Therefore, in the Nine Power Treaty respecting the principles and policies in relation to China, February 6, 1922, the principles of the Open Door Doctrine were expanded to include the principle of self-preservation or national security of the contracting parties:

"The Contracting Powers, other than China, agree: . . .

(4) To refrain . . . from countenancing action inimical to the security of such States."<sup>16</sup>

Coming now to Japan's special interest in China in general, let us study the recognition of Japan's special interest in China as embodied in the Lansing-Ishii Agreement of November 2, 1917. The agreement provides that

"The Governments of the United States and Japan recognized that territorial propinquity creates special relations between countries, and consequently the Government of the United States recognizes that Japan has special interests in China, particularly in the part to which her possessions are contiguous."<sup>17</sup>

From a superficial examination of the Open Door Doctrine and the principle of special interests, the conclusion cannot be escaped that the recognition of such interests is contrary, and inconsistent, to the Open Door Doctrine. For "special interests" must mean interests which are special, or, in other words, exclusive to Japan. Yet, the Open Door Doctrine pro-

<sup>16</sup> Art. I, *Sen. Docs.*, 67th Cong. 2d Sess., No. 126, p. 895.

<sup>17</sup> *Ibid.*, 66th Cong. 1st Sess., No. 106, p. 225.

claims the gospel of equal opportunity, barring any exclusive claims.

From a close scrutiny, however, of the agreement and Secretary Lansing's testimony before the Committee on Foreign Relations of the United States Senate in 1919, the impression of inconsistency yields to a more sympathetic conclusion that the recognition of Japan's special interests was not inconsistent, but rather in consonance, with the Open Door Doctrine. Lansing recognized Japan's special interest in China as of the same character as the special interests of the United States in Mexico, or Canada, or the Latin-American Republics. His own testimony in the Senate clearly bears evidence to his intention and interpretation:

"... I told him then that if it meant 'paramount interest,' I could not discuss it further; but if he meant special interest based upon geographical position, I would consider the insertion of it in the note. Then it was, during that same interview, that we mentioned 'paramount interest' and he made a reference to the Monroe doctrine, and rather a suggestion that there should be a Monroe doctrine for the Far East.

"And I told him that there seemed to be a misconception as to the underlying principle of the Monroe doctrine; that it was not an assertion of primacy or paramount interest by the United States in its relation to other American Republics; that its purpose was to prevent foreign powers from interfering with the separate rights of any nation in this hemisphere, and that the whole aim was to preserve to each Republic the power of self-development."<sup>18</sup>

Again in his public statement of November 6, 1917, in explanation of the agreement, Secretary Lansing said:

<sup>18</sup> *Sen. Docs.*, 66th Cong. 1st Sess., No. 106, p. 224.

"The statements in the notes require no explanation. They not only contain a reaffirmation of the 'open door' policy, but introduce a principle of noninterference with the sovereignty and territorial integrity of China, which, generally applied, is essential to perpetual international peace, as clearly declared by President Wilson, and which is the very foundation of Pan Americanism as interpreted by this Government."<sup>19</sup>

From his own testimony and statement, the conclusion may be drawn that in recognizing Japan's "special interests," Secretary Lansing recognized Japan's professed Monroe Doctrine in China, or at least its leading principle—Japan's right to enforce, both on herself and the other Powers, the obligation of non-interference with the sovereignty and territorial integrity of China. Regrettable as the fact may be that no definition of "special interests" was given in the agreement, the interpretation of Mr. Lansing stamps the expression "special interests" with the indelible meaning of non-interference with the sovereignty and territorial integrity of China. As such, and as the Open Door Doctrine proposes to preserve the same sovereignty and territorial integrity of China, the recognition of the special interests of Japan was not inconsistent but rather in harmony with the principle of the Open Door Doctrine.

Furthermore, the statement of Baron Shidehara at the Sixth Plenary Session of the Washington Conference, February 4, 1922, maintained that Japan's special interest in China was not inconsistent with the Open Door Doctrine; that is, it did not connote special privi-

<sup>19</sup> *Sen. Docs.*, 66th Cong. 1st Sess., No. 106, p. 226.

leges or exclusive preferences or political domination or territorial aggression, but it expressed a special relation of Japan to China, her own national existence being largely dependent upon that of her neighbor.

"With hundreds of thousands of our nationals resident in China, with enormous amounts of our capital invested there, and with our national existence largely dependent on that of our neighbor, we are naturally interested in that country to a greater extent than any of the countries remotely situated.

"To say that Japan has special interests in China is simply to state a plain and actual fact. It intimates no claim or pretension of any kind prejudicial to China or to any other foreign nation.

"Nor are we actuated by any intention of securing preferential or exclusive economic rights in China. . . .

"We do not seek any territory in China, but we do seek a field of economic activity beneficial as much to China as to Japan, based always on the principle of the open door and equal opportunity." <sup>20</sup>

In conclusion, interpreting Japan's special interests in China in the light of the aforesaid political developments, it is reasonable to state that it is not inconsistent or contrary to the Open Door Doctrine, but on the contrary it is quite in harmony and in consonance therewith. Japan's special interests in South Manchuria and Eastern Inner Mongolia have been declared to mean vested interests or special rights and interests as provided in the treaties and agreements with China, or to be based on Japan's claim of strategic security and economic existence. We know that such vested interests and the claims of national self-preservation

<sup>20</sup> *Sen. Docs.*, 67th Cong. 2d Sess., No. 126, p. 223.

have always been accorded, from the beginning of the Open Door Doctrine, due recognition and respect. Interpreting Japan's special interest in China as recognized in the Lansing-Ishii Agreement, as postulating the principle of non-interference with the sovereignty and integrity of China, it is evident that not only it does not conflict with the Open Door Doctrine, but it supplements and complements the fundamental principle of the integrity of China. Understanding Japan's special interest as not connoting special privileges, or exclusive preferences, or political domination, or territorial aggression, but merely as an expression of a special relation of Japan to China, due to the dependence of the former upon the latter, it is all the more manifest that Japan's special interest in China, as thus interpreted, does not conflict, but rather is in consonance, with the Open Door Doctrine.



## CHAPTER X

### OPEN DOOR DOCTRINE AND NEW INTERNATIONAL BANKING CONSORTIUM

PERHAPS there is no factor so vital to the maintenance of the Open Door Doctrine as the New International Banking Consortium. From a business point of view, it is nothing more than an international combine of the banking groups of the several Powers interested, namely, the United States, Great Britain, France and Japan, for the purpose of coöperative investment in China; but from the point of view of the maintenance and application of the Open Door Doctrine, it is its living and physical personification.

It calls a halt to the international struggle for concessions and introduces the principle and practice of international coöperation for concessions. As will be recalled, it was the international struggles for leases and concessions that called forth, from the side of the United States, the enunciation of the Open Door Doctrine and subsequently the proposal for the neutralization of the Manchurian railways; and from the side of the Chinese people, caused two momentous events of Chinese history—the Boxer Uprising and the Chinese Revolution. It can therefore be said that the international struggle for concessions is a disease of the Far

East, for which the Open Door Doctrine is meant to be a remedy or antidote applied by the United States, and the Boxer Uprising and the Chinese Revolution were meant to be measures of prevention or self-preservation undertaken by the Chinese.

Consequently, it is obvious that if the Open Door Doctrine is to be effective and practically applicable, preserving, on one hand, the principle of equal opportunity and, on the other hand, the integrity of China, it must call a halt to the menacing and disastrous international struggle for concessions; or else the Open Door Doctrine will have failed to fulfill the function for which it was intended. The transition from international struggle for concessions to international coöperation is, therefore, an inevitable and indispensable process of evolution in the maintenance and application of the Open Door Doctrine.

When the Old Sextuple Consortium was formed, the international coöperation was limited only to political or administrative loans, the Intergroup Conference at Paris, September 26, 1913, having excluded the industrial and railway loans from the scope thereof.<sup>1</sup> With the advent, however, of the New International Banking Consortium, the international coöperation is extended not only to the political and administrative loans, but also to all existing options and loans in which no substantial progress has been made, and all future loans, administrative, political, industrial and financial, to be made to the Chinese Government or any Province

<sup>1</sup> Note of Brit. For. Off. to Am. Emb., Aug. 14, 1918, *Consortium*, No. 3, pp. 7-8.

of China. In this way, the New International Banking Consortium calls a halt to the international struggle for concessions and embodies the historical development of the common policy of the Powers—international coöperation rather than international struggle for concessions.

Further, it obliterates the demarcation of the spheres of influence, which practice has been seen to be inconsistent and antithetical to the principles of the Open Door Doctrine. By pooling all existing options and concessions in which no substantial headway has been made and all future concessions of whatever nature, which involve a public issue and a guarantee of the Chinese Government,<sup>2</sup> it thus eliminates one of the leading features of the spheres of influence—the right of option or claim of priority. Adopting the policy of the internationalization of the Chinese railways that are to come within the scope of the New Consortium tends to produce the salutary effect of establishing great roads of freedom running through several spheres and of promoting the untrammelled economic development of China and the general well-being of the Powers concerned.

To this end, the British Foreign Office stated:

“One of the fundamental objects of the American proposals as accepted by the British, Japanese and French Governments, is to eliminate special claims in particular spheres of interest and to throw open the whole of China without reserve to the combined activities of an International Consortium. This object can not be achieved unless all the parties

<sup>2</sup> Note of Brit. For. Off. to Am. Emb., March 17, 1919, *Consortium*, No. 5.

to the scheme agree to sacrifice all claim to enjoy an industrial preference within the boundaries of any sphere of influence.”<sup>3</sup>

Moreover, the New Consortium upholds the integrity of China. By requiring the submission of the terms and conditions of the loans to its approval, the Department of State is in a position to safeguard and maintain the integrity of China. To this effect, Secretary Robert Lansing stated:

“If the terms and conditions of each loan are submitted to and approved by this Government, and the other coöperating Governments and by the Government of China, this Government would not only interpose no objection, but, on the contrary, would consider such an arrangement an assurance that the welfare of China and the proper interests of the other Governments were of such a mutual character as to permit of close and friendly intercourse for their common good. I think that I should say frankly that this Government will be opposed to any terms or conditions of a loan which sought to impair the political control of China or lessened the sovereign rights of that Republic.”<sup>4</sup>

Furthermore, the New Consortium aims to put into practice the principle of equal opportunity of participation in options and concessions wherein competition is unwholesome and destructive and equal sharing can come only through coöperation. That is, it aims to apply the Open Door principle of equal opportunity of trade to cases where the doctrine meets the stone wall of the economic law governing railways and other public utilities. The fact that they are monopolies not subject to competition requires, as we have seen,

<sup>3</sup> Memo. to Jap. Amb., August 11, 1919, *Consortium*, No. 14, p. 30.

<sup>4</sup> Sec. Lansing to Am. Group, July 9, 1918, *Ibid.*, No. 2, p. 4.

the adoption of the policy of internationalization, rather than competition. By pooling all existing options and concessions in which no substantial progress has been made and all future concessions and options of whatever nature that involve a public issue and a government guarantee of China, the principle of equal opportunity is made to rule, not only in the domain of private enterprises where competition is wholesome, but also in the realm of governmental concessions of the aforesaid characters, where competition is destructive, and coöperation, combination or monopoly is alone possible.

This principle of equal opportunity is made more effective by putting to public tender the contracts for the execution of the engineering and other works to be built out of the proceeds of the loans and for the supply of the necessary materials, which have hitherto been usually monopolized by the Power or her nationals possessing the concession or concessions.

"Further the inclusion of industrial loans in group business is subject to the understanding that the promise of support by His Majesty's Government applies solely to the financial side of such loans, that the British group is prepared—as is also, I am given to understand, the United States Group—to dissociate itself from the industrial side and while providing for the flotation of the loans, to put up to public tender the contracts for the execution of the engineering or other works to be built out of the proceeds of the loans and for the supply of the necessary materials."<sup>5</sup>

<sup>5</sup> Note of Brit. For. Off. to Am. Emb., March 17, 1919, *Conservatum*, No. 5, pp. 16-17.



This principle of equal opportunity of participation is further expressly stipulated in Article 4 of the New Consortium Agreement.<sup>6</sup>

Thus, by pooling all existing and future options and concessions of public character on the basis of complete equality in every respect, and by offering to public tender the execution of engineering contracts and the purchase of materials, the New Consortium establishes a condition of true equality of trade which did not obtain under the old régime of international struggles for concessions, or under the doctrine of exclusive spheres.

Concluding, it may be said that, inasmuch as the New International Banking Consortium calls a halt to the international struggle for concessions, introduces the principle and practice of international coöperation, obliterates the barriers of the spheres of influence, upholds the integrity and sovereignty of China, and maintains a condition of true equality of commercial opportunity where it was not possible to obtain it before, the New Consortium incarnates and personifies the Open Door Doctrine.

It must, however, be said that, with the advent of the New Consortium, China is face to face with the moral crisis of choosing the right course at the parting of the ways. She can avail herself of the assistance the New Consortium can render and use the loans contracted for constructive purposes and thus build up her own economic structure and stabilize her own political

<sup>6</sup> Text of the China Consortium Agreement, Oct. 15, 1920, *Consortium*, No. 34, p. 69.

equilibrium. In this way she can find her salvation and derive benefit from the New Consortium without incurring its perils. Or, she can contract loans for administrative and consumptive purposes, wasting the proceeds of loans and pawning her national assets, one after the other. In this way, she will inevitably follow the footsteps of Egypt and bring her people to the brink of ruin and bankruptcy.

Furthermore, the advent of the New Consortium brings into being a great issue in the politics of the Far East, which will be the burning problem of the years to come. This is the control of China. On the one hand, if China should fail in her loan obligations, the Powers, through the agency of the New Consortium, are bound to impose international control. On the other, Chinese nationalism, awakened to the seriousness of the situation, and having manifested itself so effectively and so nobly in the Chinese Revolution of 1911 and the Students' Strike and Economic Boycott of 1919, would not permit their inalienable right of national independence to be mortgaged or extinguished, but would enter upon a death struggle for the preservation of their national liberty and sovereignty. Hence, it is reasonable to believe that the future may witness the great struggle of the Chinese people for their national independence as against the control of Japan, or of the Powers through the New Consortium.

## CHAPTER XI

### CONDITIONS OF SUCCESSFUL APPLICATION

THE successful application of the Open Door Doctrine requires the fulfillment of three essential conditions.

The first necessary condition is the coöperation of China. Unless she obeys the doctrine, it is hopeless to expect its successful operation. For China can grant special privileges and thus violate the principle of the equal opportunity of trade, with the consequence that the Powers thus discriminated against will be obliged to claim similar or equivalent privileges, in which case, the United States will be helpless to check the Powers from a scramble. The protest of Hay, against the grant to Russia, through a corporation, of the monopoly of the industrial development of Manchuria, was based specifically on this ground.<sup>1</sup>

Again, China may voluntarily alienate or barter away or forfeit her territory and sovereignty, in which case the United States will be powerless to assist in any way, much as she may wish to do so.

<sup>1</sup> *U. S. For. Rel.*, 1902, p. 26.

Finally, China may let extravagance, corruption, civil dissension and militarism so infest and strangle her government as to render her bankrupt, in which case the United States, regretting to intervene, will be compelled, in conjunction with the other interested Powers, to take over the finances of China and, by so doing, practically destroy her administrative integrity.

Consequently, China must coöperate with the United States in the application of the Open Door Doctrine by a scrupulous observance of the principles of the equal treatment of all Powers and of the preservation of her own integrity. To act otherwise means the inevitable doom of the policy.

Nor must China hypnotize herself into the belief that the United States will fight for Chinese integrity, and acting upon this belief, fail to provide her own means of national defense. In declaring the Open Door Doctrine, the United States Government simply states its own policy or attitude and asks the other Powers interested to do likewise. But she does not pledge the enforcement thereof by her own military and naval forces. Problematical as it may be as to whether the United States will ever fight for China, the conclusion may be safely ventured that, unless China fulfills the obligation incumbent upon her, by defending her own integrity to the utmost ability, the United States will not feel called upon to undertake a task which should rest on the shoulders of the Chinese themselves. The Senate reservation to Article X of the Covenant of the League clearly shows that, except

at the discretion and direction of Congress, the United States will not obligate herself to defend the integrity and independence of another state.<sup>2</sup>

The second condition necessary for the successful application of the Open Door policy is the direct participation of the United States in the international affairs of China. This is necessary, because, unless the United States participates in the affairs and sees that the Open Door Doctrine is observed, the other Powers will fall back into the practice of insisting on closed spheres, or degenerate into the old international strug-

<sup>2</sup> Art. X reads: "The members of the League undertake to respect and preserve as against external aggression the territorial integrity and existing political independence of all Members of the League. In case of any such aggression or in case of any threat or danger of such aggression, the Council shall advise upon the means by which this obligation shall be fulfilled." The reservation reads: "The United States assumes no obligation to preserve the territorial integrity or political independence of any other country or to interfere with controversies between nations—whether members of the league or not—under the provision of Article 10, or to employ the military or naval forces of the United States under any article of the Treaty for any purpose, unless in any particular case the Congress, which, under the Constitution, has the sole power to declare war or to authorize the employment of the military or naval forces of the United States, shall by act or joint resolution so provide." *Sen. Docs.*, 66th Cong. 1st Sess., No. 143, p. 3.

Again, when Russia violated the Open Door in Manchuria and refused to fulfill her pledge of evacuation except upon the grant of seven additional demands, Secretary Hay wrote:

"If they choose to disavow Plançon [the Russian Chargé d'Affaires at Peking], and to discontinue their attempts to violate their agreements, we shall be all right, but, if the lie they told was intended to serve only a week or two, the situation will become a serious one. The Chinese, as well as the Russians, seem to know that the strength of our position is entirely moral, and if the Russians are convinced that we will not fight for Manchuria—as I suppose we will not—and the Chinese are convinced that they have nothing but good to expect from us and nothing but a beating from Russia, the open hand will not be so convincing to the poor devils of Chinks as the raised club. Still, we must do the best we can with the means at our disposition."  
—Thayer, *Life of John Hay*, Vol. 2, p. 369.



gle for concessions. This was clearly shown after the withdrawal of the American Group from the Sextuple Consortium in 1913, when, in absence of a moral leader to uphold the Open Door Doctrine, the Powers resorted to another struggle for concessions in China. In addition, the withdrawal hindered the investment of American capital in China and thereby reduced the trade that necessarily follows the loan.<sup>3</sup>

Furthermore, from the point of view of Chinese national interests, the withdrawal of the United States left China without a disinterested friend to help her in her dealings with other Powers.

The third condition necessary for the successful application of the Open Door Doctrine is the coöperation of the Powers interested. That this is necessary is evidenced by the fact that all the foreign offices addressed by Secretary Hay in his first circular note of 1899, replied favorably, but with the condition that the other Powers would make a similar declaration respecting the Open Door policy. This condition means that, unless all the other Powers observe the Open Door Doctrine, any Power, promising to do so, is not bound by the obligation assumed. Thus, when one Power commences to seize concessions, the others do not feel obligated to restrain themselves, but, on the contrary, are compelled to do likewise. For instance, in the general scramble for concessions in 1914 after the withdrawal of the United States, France did not feel obliged to abide by her reply to the former pledg-

<sup>3</sup> Annual report of the Am. Assn. of China, Dec. 29, 1914, Millard, *Our Eastern Question*, p. 357.

ing to observe the Open Door Doctrine, but felt free to secure from the Chinese Government the assurance that in Kwangsi preference would be given to French interests in regard to railway and mining enterprises. When Russia forced her joint suzerainty with China over Outer Mongolia in 1913, Great Britain did not feel bound by her own pledge of 1899 and 1900. On the contrary, she felt constrained in 1914 to make a similar attempt on Tibet. In the absence of any means of enforcement, therefore, it is clear that any proposal or measure made in behalf of the Open Door policy must receive the coöperation and support of the Powers interested. Otherwise it has little chance to succeed. Because of the opposition of Russia and Japan, the neutralization plan of Secretary Knox, formulated evidently with statesmanlike purpose, did not materialize. On the other hand, the currency and industrial development loan was successfully concluded because of the disinterested sharing on the part of the United States with the other Powers and their voluntary coöperation.

The successful application of the Open Door policy, therefore, depends upon the fulfillment of these three essential conditions: the coöperation of China, the direct participation of the United States, and the coöperation of the Powers interested. In view of the present state of world politics, the lack of any of these conditions will render the application of the Open Door Doctrine in China unsatisfactory, if not entirely unsuccessful.

It is gratifying to note that these three essential

conditions for the successful application of the Open Door Doctrine have all been provided for at the Washington Conference. In the Nine Power Treaty, China is made a party thereof and is obligated to observe the canons of the Open Door Doctrine just as much as the United States or any other signatory or adhering Power. She agrees not to enter into any treaty, agreement, arrangement, or understanding, individually or collectively, with any Power or Powers, which would infringe or impair the principles of her own integrity and equal opportunity of trade.<sup>4</sup> In dealing with the applications for economic rights and privileges from Governments and nationals of all foreign countries, whether parties to the treaty or not, she undertakes to be guided by the principle of debarring the practice of spheres of influence, monopolies and preferences infringing the rights of other nationals or frustrating the application of equal opportunity of trade, by virtue of the scope, duration or geographical extent of the concession.<sup>5</sup> With respect to her own integrity, she declares that when she is a neutral, she will observe the obligations of neutrality;<sup>6</sup> what is more, in the Sixth Plenary Session of the Washington Conference, she placed upon record the solemn declaration:

“China upon her part is prepared to give an understanding not to alienate or lease any portion of her territory or littoral to any Power.”<sup>7</sup>

<sup>4</sup> Art. II, *Sen. Docs.*, 67th Cong. 2d Sess., No. 126, p. 895.

<sup>5</sup> Art. III, *Ibid.*, p. 895.

<sup>6</sup> Art. VI, *Ibid.*, p. 896.

<sup>7</sup> Feb. 4, 1922, *Ibid.*, p. 170.

Thus, the first condition for successful application, by obligating China to observe the practice of the Open Door Doctrine, has been fulfilled.

Again, in the Nine Power Treaty, the United States, in conjunction with the other Powers, is obligated to participate directly in the maintenance of the Open Door Doctrine. She is not only to observe it, as she advocates, but is also to communicate fully and frankly with the other Contracting Powers whenever a situation arises which involves the application of the doctrine or the provisions of the treaty.<sup>8</sup> Coupled with her leadership in the New International Banking Consortium, her direct participation in the interest of the Open Door Doctrine in China is thus assured. And so the second condition has been met.

Furthermore, all the other Signatory Powers are committed to the doctrine, not only the original Powers addressed by John Hay, Great Britain, France, Italy, Japan, excepting Germany and Russia, but also Belgium, The Netherlands, and Portugal. What is more, Powers not signatory, which have Governments recognized by the Signatory Powers and which have treaty relations with China, are to be invited to adhere to the present treaty, the invitation to be undertaken by the Government of the United States.<sup>9</sup> Thus the observance of the Open Door Doctrine is to be made universal, as far as possible, in the foreign relations of China.

Hitherto, the Powers have conditioned the observ-

<sup>8</sup> Art. VII, *Sen. Docs.*, 67th Cong. 2d Sess., No. 126, p. 896.

<sup>9</sup> Nine Power Treaty, Art. VIII, *Ibid.*, p. 896.

ance of the Open Door Doctrine by the qualification that all the other nations should likewise accede thereto, which, in actual interpretation and practice, has meant that as soon as any Power should violate the doctrine, the other Powers would no longer be bound by the undertaking. On the contrary, they would be compelled to enter into the race for concessions leading to the frustration of the application of equal opportunity of trade and the impairment of China's sovereignty and integrity. In short, the Open Door Doctrine has hitherto not been effective and binding. But now, as an outcome of the Washington Conference, the Powers have not only reaffirmed, reasserted, revitalized, specified and amplified the doctrine, but also solemnly undertaken not to violate its principles, regardless of the observance of the other Powers, thus abandoning the original reservation or qualification which had rendered the doctrine ineffective and non-obligatory.

"The Contracting Powers agree not to enter into any treaty, agreement, arrangement, or understanding, either with one another, or, individually or collectively, with any Power or Powers, which would infringe or impair the principles stated in Article I." <sup>10</sup>

Moreover, to secure the successful application of the Doctrine, whenever a situation arises which involves the application of the provisions, the Powers agreed that there should be full and frank communication between the Contracting Powers concerned. As a fur-

<sup>10</sup> Art. II, *Sen. Docs.*, 67th Cong. 2d Sess., No. 126, p. 896.



ther means of dealing with the questions that may arise in connection with the execution of the provisions relating to the equal opportunity of trade, they resolved that there should be established in China a Board of Reference to which any questions arising in connection with the execution of the aforesaid provisions may be referred for investigation and report. The detailed plan for the constitution of the Board is to be formulated by the Special Conference provided in the Treaty of February 6, 1922, with reference to the Chinese Customs Tariff.<sup>11</sup> Thus, the third condition of the coöperation of the Powers interested in the observance of the Open Door Doctrine is provided.

In conclusion, it is expected that the fulfillment of these three conditions will secure hereafter better prospects and more reasonable assurances for the successful application of the Open Door Doctrine.

<sup>11</sup> Resolution regarding a Board of Reference for Far Eastern Questions, *Sen. Docs.*, 67th Cong. 2d Sess., No. 126, p. 903.



## APPENDIX I.

U. S. For. Rel., 1899, pp. 131-133, 142.

Hay's Open Door Policy.

*Mr. Hay to Mr. Choate.*

No. 205.]

DEPARTMENT OF STATE,

*Washington, September 6, 1899.*

SIR: The Government of Her Britannic Majesty has declared that its policy and its very traditions precluded it from using any privileges which might be granted it in China as a weapon for excluding commercial rivals, and that freedom of trade for Great Britain in that Empire meant freedom of trade for all the world alike. While conceding by formal agreements, first with Germany and then with Russia, the possession of "spheres of influence or interest" in China in which they are to enjoy special rights and privileges, more especially in respect of railroads and mining enterprises, Her Britannic Majesty's Government has therefore sought to maintain at the same time what is called the "open-door" policy, to insure to the commerce of the world in China equality of treatment within said "spheres" for commerce and navigation. This latter policy is alike urgently demanded by the British mercantile communities and by those of the United States, as it is justly held by them to be the only one which will improve existing conditions, enable them to maintain their positions in the markets of China, and extend their operations in the future. While the Government of the United States will in no way commit itself to a recognition of exclusive rights of any power within or control over any portion

of the Chinese Empire under such agreements as have within the last year been made, it can not conceal its apprehension that under existing conditions there is a possibility, even a probability, of complications arising between the treaty powers which may imperil the rights insured to the United States under our treaties with China.

This Government is animated by a sincere desire that the interests of our citizens may not be prejudiced through exclusive treatment by any of the controlling powers within their so-called "spheres of interest" in China, and hopes also to retain there an open market for the commerce of the world, remove dangerous sources of international irritation, and hasten thereby united or concerted action of the powers at Peking in favor of the administrative reforms so urgently needed for strengthening the Imperial Government and maintaining the integrity of China in which the whole western world is alike concerned. It believes that such a result may be greatly assisted by a declaration by the various powers claiming "spheres of interest" in China of their intentions as regards treatment of foreign trade therein. The present moment seems a particularly opportune one for informing Her Britannic Majesty's Government of the desire of the United States to see it make a formal declaration and to lend its support in obtaining similar declarations from the various powers claiming "spheres of influence" in China, to the effect that each in its respective spheres of interest or influence—

First. Will in no wise interfere with any treaty port or any vested interest within any so-called "sphere of interest" or leased territory it may have in China.

Second. That the Chinese treaty tariff of the time being shall apply to all merchandise landed or shipped to all such ports as are within said "sphere of interest" (unless they be "free ports"), no matter to what nationality it may belong, and that duties so leviable shall be collected by the Chinese Government.

Third. That it will levy no higher harbor dues on vessels

of another nationality frequenting any port in such "sphere" than shall be levied on vessels of its own nationality, and no higher railroad charges over lines built, controlled, or operated within its "sphere" on merchandise belonging to citizens or subjects of other nationalities transported through such "sphere" than shall be levied on similar merchandise belonging to its own nationals transported over equal distances.

The recent ukase of His Majesty the Emperor of Russia, declaring the port of Ta-lien-wan open to the merchant ships of all nations during the whole of the lease under which it is to be held by Russia, removing as it does all uncertainty as to the liberal and conciliatory policy of that power, together with the assurances given this Government by Russia, justifies the expectation that His Majesty will coöperate in such an understanding as is here proposed, and our ambassador at the court of St. Petersburg has been instructed accordingly to submit the propositions above detailed to His Imperial Majesty, and ask their early consideration. Copy of my instruction to Mr. Tower is herewith inclosed for your confidential information.

The action of Germany in declaring the port of Kiaochao a "free port," and the aid the Imperial Government has given China in the establishment there of a Chinese custom-house, coupled with the oral assurance conveyed the United States by Germany that our interests within its "sphere" would in no wise be affected by its occupation of this portion of the province of Shang-tung, tend to show that little opposition may be anticipated from that power to the desired declaration.

The interests of Japan, the next most interested power in the trade of China, will be so clearly served by the proposed arrangement, and the declaration of its statesmen within the last year are so entirely in line with the views here expressed, that its hearty coöperation is confidently counted on.

You will, at as early date as practicable, submit the consideration to Her Britannic Majesty's principal secretary of state for foreign affairs and request their immediate consideration.



I inclose herewith a copy of the instruction sent to our ambassador at Berlin bearing on the above subject.

I have the honor to be, etc.,

JOHN HAY.

*Instructions sent mutatis mutandis to the United States Ambassadors at London, Paris, Berlin, St. Petersburg, and Rome, and to the United States minister at Tokio.*

DEPARTMENT OF STATE,  
*Washington, March 20, 1900.*

SIR: The —— Government having accepted the declaration suggested by the United States concerning foreign trade in China, the terms of which I transmitted to you in my instruction No. —— of ——, and like action having been taken by all the various powers having leased territory or so-called "spheres of interest" in the Chinese Empire, as shown by the notes which I herewith transmit to you, you will please inform the Government to which you are accredited that the condition originally attached to its acceptance—that all other powers concerned should likewise accept the proposals of the United States—having been complied with, this Government will therefore consider the assent given to it by —— as final and definitive.

You will also transmit to the minister for foreign affairs copies of the present inclosures, and by the same occasion convey to him the expression of the sincere gratification which the President feels at the successful termination of these negotiations, in which he sees proof of the friendly spirit which animates the various powers interested in the untrammelled development of commerce and industry in the Chinese Empire, and a source of vast benefit to the whole commercial world.

I am, etc.,

JOHN HAY.

## APPENDIX II.

U. S. For. Rel., 1901, Appendix, Affairs in China, p. 12.

*Circular note of July 3, 1900, to the powers coöperating in China, defining the purposes and policy of the United States.*

[Circular telegram sent to the United States embassies in Berlin, Paris, London, Rome, and St. Petersburg, and to the United States missions in Vienna, Brussels, Madrid, Tokyo, The Hague, and Lisbon.]

DEPARTMENT OF STATE,  
*Washington, July 3, 1900.*

In this critical posture of affairs in China it is deemed appropriate to define the attitude of the United States as far as present circumstances permit this to be done. We adhere to the policy initiated by us in 1857 of peace with the Chinese nation, of furtherance of lawful commerce, and of protection of lives and property of our citizens by all means guaranteed under extraterritorial treaty rights and by the law of nations. If wrong be done to our citizens we propose to hold the responsible authors to the uttermost accountability. We regard the condition at Peking as one of virtual anarchy, whereby power and responsibility are practically devolved upon the local provincial authorities. So long as they are not in overt collusion with rebellion and use their power to protect foreign life and property, we regard them as representing the Chinese people, with whom we seek to remain in peace and friendship. The purpose of the President is, as it has been heretofore, to act concurrently with the other powers; first, in opening up communication with Peking and rescuing the American officials, mis-

sionaries, and other Americans who are in danger; secondly, in affording all possible protection everywhere in China to American life and property; thirdly, in guarding and protecting all legitimate American interests; and fourthly, in aiding to prevent a spread of the disorders to the other provinces of the Empire and a recurrence of such disasters. It is of course too early to forecast the means of attaining this last result; but the policy of the Government of the United States is to seek a solution which may bring about permanent safety and peace to China, preserve Chinese territorial and administrative entity, protect all rights guaranteed to friendly powers by treaty and international law, and safeguard for the world the principle of equal and impartial trade with all parts of the Chinese Empire.

You will communicate the purport of this instruction to the minister for foreign affairs.

HAY.

### APPENDIX III.

U. S. For. Rel., 1900, p. 354.

*Text of Anglo-German Agreement, Oct. 16, 1900.*

Her Britannic Majesty's Government and the Imperial German Government, being desirous to maintain their interest in China and their rights under existing treaties, have agreed to observe the following principles in regard to their mutual policy in China:

I. It is a matter of joint and permanent international interest that the ports on the rivers and littoral of China should remain free and open to trade and to every other legitimate form of economic activity for the nationals of all countries without distinction, and the two Governments agree on their part to uphold the same for all Chinese territory so far as they can exercise influence.

II. Her Britannic Majesty's Government and the Imperial German Government will not on their part make use of the present complication to obtain for themselves any territorial advantages in Chinese dominions and will direct their policy toward maintaining undiminished the territorial conditions of the Chinese Empire.

III. In case of another power making use of the complications in China in order to obtain under any form whatever such territorial advantages, the two contracting parties reserve to themselves to come to a preliminary understanding as to the eventual steps to be taken for the protection of their own interests in China.

IV. The two Governments will communicate this agreement to the other powers interested, and especially to Austro-Hungary, France, Italy, Japan, Russia, and the United States of America, and will invite them to accept the principles recorded in the agreement.



## APPENDIX IV.

U. S. For. Rel., 1902, pp. 275-276.

*Memorandum respecting Manchuria—February 1, 1902.*

DEPARTMENT OF STATE,  
*Washington, February 1, 1902.*

An agreement by which China cedes to any corporation or company the exclusive right and privilege of opening mines, establishing railroads, or in any other way industrially developing Manchuria, can but be viewed with the gravest concern by the Government of the United States. It constitutes a monopoly, which is a distinct breach of the stipulations of treaties concluded between China and foreign powers, and thereby seriously affects the rights of American citizens; it restricts their rightful trade and exposes it to being discriminated against, interfered with, or otherwise jeopardized, and strongly tends toward permanently impairing the sovereign rights of China in this part of the Empire, and seriously interferes with her ability to meet her international obligations. Furthermore, such concession on the part of China will undoubtedly be followed by demands from other powers for similar and equal exclusive advantages in other parts of the Chinese Empire, and the inevitable result must be the complete wreck of the policy of absolute equality of treatment of all nations in regard to trade, navigation, and commerce within the confines of the Empire.

On the other hand, the attainment by one power of such exclusive privileges for a commercial organization of its nationality conflicts with the assurances repeatedly conveyed to this Government by the Imperial Russian ministry of foreign af-

fairs of the Imperial Government's intention to follow the policy of the open door in China, as advocated by the Government of the United States and accepted by all the treaty powers having commercial interests in that Empire.

It is for these reasons that the Government of the United States, animated now, as in the past, with the sincerest desire of insuring to the whole world the benefits of full and fair intercourse between China and the nations on a footing of equal rights and advantages to all, submits the above to the earnest consideration of the Imperial Governments of China and Russia, confident that they will give due weight to its importance and adopt such measures as will relieve the just and natural anxiety of the United States.

## APPENDIX V.

U. S. For. Rel., 1905, p. 1.

### Territorial Integrity of China.

[Circular Telegram.]

DEPARTMENT OF STATE,  
*Washington, January 13, 1905.*

*To the American Ambassadors to Austria, Belgium, France,  
Germany, Great Britain, Italy, and Portugal.*

It has come to our knowledge that apprehension exists on the part of some of the powers that in the eventual negotiations for peace between Russia and Japan claim may be made for the concession of Chinese territory to neutral powers. The President would be loath to share this apprehension, believing that the introduction of extraneous interests would seriously embarrass and postpone the settlement of the issues involved in the present contest in the Far East, thus making more remote the attainment of that peace which is so earnestly to be desired. For its part, the United States has repeatedly made its position well known, and has been gratified at the cordial welcome accorded to its efforts to strengthen and perpetuate the broad policy of maintaining the integrity of China and the "open door" in the Orient, whereby equality of commercial opportunity and access shall be enjoyed by all nations. Holding these views the United States disclaims any thought of reserved territorial rights or control in the Chinese Empire, and it is deemed fitting to make this purpose frankly known and to remove all apprehension on this score so far as concerns the policy

of this nation, which maintains so considerable a share of the Pacific commerce of China and which holds such important possessions in the western Pacific, almost at the gateway of China.

You will bring this matter to the notice of the government to which you are accredited, and you will invite the expression of its views thereon.

JOHN HAY.

## APPENDIX VI.

U. S. For. Rel., 1908, pp. 510-511.

### Root-Takahira Agreement.

[Notes exchanged between the United States and Japan November 30, 1908, declaring their policy in the Far East.]

*The Japanese Ambassador to the Secretary of State.*

IMPERIAL JAPANESE EMBASSY,  
*Washington, November 30, 1908.*

SIR: The exchange of views between us, which has taken place at the several interviews which I have recently had the honor of holding with you, has shown that Japan and the United States holding important outlying insular possessions in the region of the Pacific Ocean, the Governments of the two countries are animated by a common aim, policy, and intention in that region.

Believing that a frank avowal of that aim, policy, and intention would not only tend to strengthen the relations of friendship and good neighborhood, which have immemorially existed between Japan and the United States, but would materially contribute to the preservation of the general peace, the Imperial Government have authorized me to present to you an outline of their understanding of that common aim, policy, and intention:

1. It is the wish of the two Governments to encourage the free and peaceful development of their commerce on the Pacific Ocean.

2. The policy of both Governments, uninfluenced by any aggressive tendencies, is directed to the maintenance of the exist-



ing status quo in the region above mentioned and to the defense of the principle of equal opportunity for commerce and industry in China.

3. They are accordingly firmly resolved reciprocally to respect the territorial possessions belonging to each other in said region.

4. They are also determined to preserve the common interest of all powers in China by supporting by all pacific means at their disposal the independence and integrity of China and the principle of equal opportunity for commerce and industry of all nations in that Empire.

5. Should any event occur threatening the status quo as above described or the principle of equal opportunity as above defined, it remains for the two Governments to communicate with each other in order to arrive at an understanding as to what measures they may consider it useful to take.

If the foregoing outline accords with the view of the Government of the United States, I shall be gratified to receive your confirmation.

I take this opportunity to renew to your excellency the assurance of my highest consideration.

K. TAKAHIRA.

## APPENDIX VII.

U. S. For. Rel. 1910, pp. 243-245.

Knox Neutralization Proposal.

*Statement given to the press.*

DEPARTMENT OF STATE,  
*Washington, January 6, 1910.*

In reply to an inquiry as to the truth of the St. Petersburg report relating to the neutralization of railways in Manchuria, the Secretary of State to-day said:

The proposition of the United States to the interested powers looking to the neutralization of the Manchurian railroads discloses the end toward which American policy in the Far East has been recently directed.

Late in May last this Government learned that an understanding had been reached between important British, French, and German financial groups, supported by their Governments, by which they were to furnish funds for the construction of two great railways in China. This Government, believing that sympathetic coöperation between the Governments most vitally interested would best subserve the policies of maintenance of Chinese political integrity and equality of commercial opportunity, suggested that American coöperation with the powerful international financial group already formed would be useful to further the policies to which all were alike pledged.

This Government pointed out that the greatest danger at present in China to the open door and the development of foreign trade arose from disagreements among the great western

nations, and expressed the opinion that nothing would afford so impressive an object lesson to China and the world as the sight of the four great capitalist nations—Great Britain, Germany, France, and the United States—standing together for equality of commercial opportunity.

Owing to the strong opposition that had developed in certain official quarters in China and elsewhere, the President, in July last, felt warranted in resorting to the somewhat unusual method of communicating directly with His Imperial Highness Prince Chun, regent of the Chinese Empire, informing the latter that he was greatly disturbed at the reports of certain prejudiced opposition to the Chinese Government's arranging for equal participation by American capital in the Hukuang loan. The President pointed out that the wishes of the United States were based upon broad national and impersonal principles of equity and good policy, in which a due regard for the best interests of China had a prominent part. He asserted his intense personal interest in making the use of American capital in the development of China an instrument in the promotion of China's welfare and an increase in her material prosperity without entanglements or embarrassments that might affect the growth of her independent political power and the preservation of her territorial integrity.

As a result of this communication, an agreement was soon reached with the Chinese Government that American bankers should take one-fourth of the total loan and that Americans and American materials should have all the same rights, privileges, preferences, and discretions for all present and prospective lines that were reserved to the British, German, and French nationals and materials under the terms of their original agreement, except only the right to appoint chief engineers for the two sections about to be placed under contract. As to the latter point, China gave assurance that American engineers would be employed upon the engineering corps of both roads and that the present waiving of America's right to chief engineers would in no way prejudice its rights in that regard when future extensions should

be constructed. After several months of continuous negotiation, the right to such American all-round equal participation has been acknowledged and a final settlement on this basis has been all but completed.

The grounds for this energetic action on the part of the United States Government have not been generally understood. Railroad loans floated by China have in the past generally been given an imperial guaranty and secured by first mortgages on the lines constructed or by pledging provincial revenues as security. The proposed hypothecation of China's internal revenues for a loan was therefore regarded as involving important political considerations. The fact that the loan was to carry an imperial guaranty and be secured on the internal revenues made it of the greatest importance that the United States should participate therein in order that this Government might be in a position as an interested party to exercise an influence equal to that of any of the other three powers in any question arising through the pledging of China's national resources, and to enable the United States, moreover, at the proper time again to support China in urgent and desirable fiscal administrative reforms, such as the abolition of *likin*, the revision of the customs tariff, and general fiscal and monetary rehabilitation.

There were, however, stronger reasons and broader grounds. In fact, the action of the Government in respect to the pending loan was but the first step in a new phase of the traditional policy of the United States in China and with special reference to Manchuria. As is well known, the essential principles of the Hay policy of the open door are the preservation of the territorial and jurisdictional integrity of the Chinese Empire and equal commercial opportunity in China for all nations. This Government believes that one of the most effective, if not the most effective, way to secure for China the undisturbed enjoyment of all political rights in Manchuria and to promote the normal development of the eastern provinces under the policy of the open door practically applied would be to take the railroads of Manchuria out of eastern politics and place them under an

economic and impartial administration by vesting in China the ownership of its railroads; the funds for that purpose to be furnished by the nationals of such interested powers as might be willing to participate and who are pledged to the policy of the open door and equal opportunity, the powers participating to operate the railway system during the period of the loan and enjoy the usual preferences in supplying materials.

Such a policy would naturally require for its execution the coöperation not only of China, but also of Japan and of Russia, who already have extensive railway rights in Manchuria. The advantages of such a plan are obvious. It would insure unimpaired Chinese sovereignty, the commercial and industrial development of the Manchurian provinces, and furnish a substantial reason for the early solution of the problems of fiscal and monetary reforms which are now receiving such earnest attention by the Chinese Government. It would afford an opportunity for both Russia and Japan to shift their onerous duties, responsibilities, and expenses in connection with these railways to the shoulders of the combined powers, including themselves. Such a policy, moreover, would effect a complete commercial neutralization of Manchuria, and in so doing make a large contribution to the peace of the world by converting the provinces of Manchuria into an immense commercial neutral zone.

The recent signature of an ad referendum agreement between a representative of the Chinese Government and the financial representatives of the United States and Great Britain to finance and construct a railway line from Chinchow to Aigun gave the United States an opportunity to lay this proposal before the Government of Great Britain for its consideration, and it is gratifying to be able to state that the project has already received the approval in principle of that Government. There are reasons to believe that such a plan might also meet with like favorable consideration on the part of Russia. Germany and China cordially approve the American suggestion, and certain press reports from Japan indicate that the project may likewise be received with favor by that country. For instance,



a recent article on the subject in the Japan Mail ends with these significant words:

"One can not conceal from oneself the fact that if all the railways forming part of the system which connects the west with the Far East were converted into a neutral estate a great contribution will be made to the peace of the world."

## APPENDIX VIII.

Sen. Doc. No. 126, 67th Cong., 2d Sess., p. 779.

The United States Declaration of May 13, 1915, concerning  
the Twenty-one Demands.

“In view of the circumstances of the negotiations which have taken place and which are now pending between the Government of China and the Government of Japan and of the agreements which have been reached as a result thereof, the Government of the United States has the honor to notify the Government of the Chinese Republic that it can not recognize any agreement or undertaking which has been entered into or which may be entered into between the Governments of China and Japan impairing the treaty rights of the United States and its citizens in China, the political or territorial integrity of the Republic of China, or the international policy relative to China commonly known as the open-door policy.’ ”

## APPENDIX IX.

Sen. Doc. No. 106, 66th Cong., 1st Sess., p. 225.

### Lansing-Ishii Agreement.

Hearings before the Com. on For. Rel. U. S. Senate, on the Treaty of Peace with Germany, signed at Versailles on June 28, 1919, and submitted to the Senate on July 10, 1919, by the President of the United States.

Agreement effected by exchange of notes between the United States and Japan—mutual interest relating to the Republic of China—signed November 2, 1917.

(The Secretary of State to the Ambassador Extraordinary and Plenipotentiary of Japan on special mission.)

DEPARTMENT OF STATE,  
*Washington, November 2, 1917.*

EXCELLENCY: I have the honor to communicate herein my understanding of the agreement reached by us in our recent conversations touching the questions of mutual interest to our Governments relating to the Republic of China.

In order to silence mischievous reports that have from time to time been circulated, it is believed by us that a public announcement once more of the desires and intentions shared by our two Governments with regard to China is advisable.

The Governments of the United States and Japan recognize that territorial propinquity creates special relations between countries, and consequently the Government of the United States recognizes that Japan has special interests in China, particularly in the part to which her possessions are contiguous.

The territorial sovereignty of China, nevertheless, remains unimpaired, and the Government of the United States has every confidence in the repeated assurances of the Imperial Japanese Government that while geographical position gives Japan such special interests they have no desire to discriminate against the trade of other nations or to disregard the commercial rights heretofore granted by China in treaties with other powers.

The Governments of the United States and Japan deny that they have any purpose to infringe in any way the independence or territorial integrity of China, and they declare, furthermore, that they always adhere to the principle of the so-called "open door" or equal opportunity for commerce and industry in China.

Moreover, they mutually declare that they are opposed to the acquisition by any government of any special rights or privileges that would affect the independence or territorial integrity of China, or that would deny to the subjects or citizens of any country the full enjoyment of equal opportunity in the commerce and industry of China.

I shall be glad to have Your Excellency confirm this understanding of the agreement reached by us.

Accept, Excellency, the renewed assurance of my highest consideration.

ROBERT LANSING.

His Excellency VISCOUNT KIKUJIRO ISHII.

*Ambassador Extraordinary and Plenipotentiary of Japan  
on Special Mission.*

## APPENDIX X.

The Consortium (Pamphlet Series of The Carnegie Endowment for International Peace, Division of International Law, No. 40), p. 67.

Text of the China Consortium Agreement, October 15, 1920.

AN AGREEMENT made the fifteenth day of October, 1920, between

THE HONGKONG AND SHANGHAI BANKING CORPORATION, having its office at 9 Gracechurch Street in the City of London (hereinafter called "the Hongkong Bank") of the first part

THE BANQUE DE L'INDO CHINE having its office at 15bis Rue Laffitte Paris (hereinafter called "the French Bank") of the second part

THE YOKOHAMA SPECIE BANK LIMITED having its office at Yokohama in Japan (hereinafter called "the Japanese Bank") of the third part and

MESSRS. J. P. MORGAN & Co., MESSRS. KUHN, LOEB & Co., THE NATIONAL CITY BANK OF NEW YORK, CHASE NATIONAL BANK, NEW YORK, THE GUARANTY TRUST COMPANY OF NEW YORK, MESSRS. LEE, HIGGINSON & Co. OF BOSTON, and the CONTINENTAL AND COMMERCIAL TRUST AND SAVINGS BANK OF CHICAGO (hereinafter called "the American Managers") acting as to the United Kingdom by Messrs. Morgan, Grenfell & Co., of 22 Old Broad Street in the City of London and as to France by Messrs. Morgan Harjes & Co. of Paris of the fourth part

WHEREAS the Hongkong Bank the French Bank the Japanese Bank and the American Managers are acting for the pur-

poses of this agreement as the representatives of the British, French, Japanese and American Groups respectively

AND WHEREAS the British, French, Japanese and American Groups were formed with the object of negotiating and carrying out Chinese loan business

AND WHEREAS their respective Governments have undertaken to give their complete support to their respective national groups the parties hereto in all operations undertaken pursuant to the agreement hereinafter contained and have further undertaken that in the event of competition in the obtaining of any specific loan contract the collective support of the diplomatic representatives in Peking of the four Governments will be assured to the parties hereto for the purpose of obtaining such contract

AND WHEREAS the said national groups are of the opinion that the interests of the Chinese people can in existing circumstances best be served by the coöperative action of the various banking groups representing the investment interests of their respective countries in procuring for the Chinese Government the capital necessary for a programme of economic reconstruction and improved communications

AND WHEREAS with these objects in view the respective national groups are prepared to participate on equal terms in such undertakings as may be calculated to assist China in the establishment of her great public utilities and to these ends to welcome the coöperation of Chinese capital.

NOW IT IS HEREBY AGREED by and between the parties hereto as follows:

1. EACH GROUP reserves to itself the right of increasing or reducing the number of its own members but so that any member of a group dropping out shall remain bound by the restrictive provisions hereof and any member of a group coming in shall become subject to the restrictive provisions hereof and so that no group shall (without the consent of the others) be entitled to admit into its group a new member who is not of its nationality and domiciled in its market. The admission



of any new group shall be determined by the parties hereto subject to the approval of their respective Governments.

2. THIS AGREEMENT relates to existing and future loan agreements which involve the issue for subscription by the public of loans to the Chinese Government or to Chinese Government Departments or to Provinces of China or to companies or corporations owned or controlled by or on behalf of the Chinese Government or any Chinese Provincial Government or to any party if the transaction in question is guaranteed by the Chinese Government or Chinese Provincial Government but does not relate to agreements for loans to be floated in China. Existing agreements relating to industrial undertakings upon which it can be shown that substantial progress has been made may be omitted from the scope of this Agreement.

3. The existing Agreements and any future loan agreements to which this Agreement relates and any business arising out of such agreements respectively shall be dealt with by the said groups in accordance with the provisions of this Agreement.

4. This Agreement is made on the principle of complete equality in every respect between the parties hereto and each of the parties hereto shall take an equal share in all operations and sign all contracts and shall bear an equal share of all charges in connection with any business (except stamp duties and any charges of and in connection with the realization by the parties hereto in their respective markets of their shares in the operations) and the parties hereto shall conclude all contracts with equal rights and obligations as between themselves and each party shall have the same rights, privileges, prerogatives, advantages, responsibilities and obligations of every sort and kind. Accordingly preliminary advances on account of or in connection with business to which this Agreement relates shall be borne by each of the parties hereto in equal shares and each of the parties hereto shall be entitled to participate equally in the existing Agreements and will offer to the other parties hereto an equal participation with itself in any future loan business falling within the scope of this Agreement. Should one or more of

the parties hereto decline a participation in the existing Agreements or any of them or in any such future loan business as aforesaid the party or parties accepting a participation therein shall be free to undertake the same but shall issue on its or their markets only.

5. ALL CONTRACTS shall so far as possible be made so as not to impose joint liability on the parties hereto but each of the parties hereto shall severally liquidate its own engagements or liabilities. The parties hereto will so far as possible come to an understanding with regard to the realization of the operations but so that such realization in whatever manner this may take place shall be for the separate benefit of each of the parties hereto as regards their respective participations therein and so that each of the parties hereto shall be entitled to realize its participation in the operations only in its own market it being understood that the issues in the respective markets are to be made at substantial parity.

6. ANY one or more of the parties hereto who shall have accepted its or their participation in any business hereunder shall be entitled by notice in writing to call upon the other or others of the parties hereto who propose to issue their own respective participations to issue for the account of the party or parties giving such notice or notices either all or one-half of the amount which may constitute the participation of the party or parties giving such notice or notices and the party or parties so called upon shall issue the said amount or amounts (hereinafter called "the Residuary Participation") specified in such notice or notices upon the subject to the terms and conditions following, viz.:

- (1) Such notice or notices must be received by the other or others of the parties hereto before the execution of the final Agreement for the issue of the loan or (in the case of an issue of a part only of the loan) of so much thereof as the parties hereto may from time to time agree to issue.
- (2) The party or parties to whom such notice or notices shall have been given shall be entitled to decide among

themselves and without reference to the party or parties giving such notice or notices as to which one or more of them shall issue the Residuary Participation but in default of any such decision they shall issue the same equally between them.

- (3) In issuing the Residuary Participation no distinction shall be made between the Residuary Participation and the amount or amounts issued on its or their own account by the party or parties issuing the Residuary Participation which shall in all respects be subject to the conditions of the respective Syndicates which may be formed for the purpose of effecting the issue.
- (4) Each of the parties issuing the Residuary Participation shall be entitled to decide for itself and without reference to the party or parties giving such notice or notices as to what expenses shall be incurred in relation to the issue of the total amount issued by such party.
- (5) The party or parties issuing the Residuary Participation shall be entitled between them to charge the party or parties giving such notice or notices with a commission of not exceeding  $1\frac{1}{2}$  per cent. on the nominal amount of the Residuary Participation and also with a pro rata share of the total expenses which the issuing party or parties may in their sole discretion incur in relation to the whole issue and being in the proportion which the Residuary Participation bears to the total nominal amount of the issue.
- (6) The party or parties issuing the Residuary Participation shall not by virtue of this Agreement incur any responsibility to subscribe for the Residuary Participation or to cause the same to be subscribed.
- (7) Each party issuing the Residuary Participation shall apply all subscriptions received by it pro rata between the Residuary Participation issued by it and the amount issued by such party on its own account.
- (8) Each of the parties issuing the Residuary Participation

will apply for and use its best endeavors to obtain a quotation on its market for the total amount issued by it.

- (9) No issue of the Residuary Participation or any part thereof shall be made by the party or parties giving such notice or notices unless mutually agreed by the parties hereto.

7. No participation shall be given by any one of the parties hereto outside its own market. Any participation given in its own market by any one of the parties hereto shall be for its own account only or in the event of the issue including any of the Residuary Participation for the accounts pro rata of the issuing Bank and the party or parties giving such notice or notices as aforesaid and in giving any such participation the party giving the same shall use its best endeavours to secure that no part of such participation shall be transferred to parties outside the market of the party giving the same. Any other participation shall be given only with the consent of all parties hereto and shall be borne in equal shares by the parties hereto.

8. THIS Agreement shall remain in force for the period of five years from the date hereof provided nevertheless that a majority of the parties hereto may by twelve months' previous notice in writing addressed to the other parties hereto determine this Agreement at any time.

IN WITNESS whereof the duly authorized representatives of the respective parties hereto have set their hands the day and year first above written.

## APPENDIX XI.

Sen. Doc. No. 126, 67th Cong., 2d Sess., pp. 893-897.

A Treaty between all Nine Powers relating to Principles and Policies to be followed in Matters concerning China.

The United States of America, Belgium, the British Empire, China, France, Italy, Japan, the Netherlands and Portugal:

Desiring to adopt a policy designed to stabilize conditions in the Far East, to safeguard the rights and interests of China, and to promote intercourse between China and the other Powers upon the basis of equality of opportunity;

Have resolved to conclude a treaty for that purpose and to that end have appointed as their respective Plenipotentiaries;

Who, having communicated to each other their full powers, found to be in good and due form, have agreed as follows:

### ARTICLE I.

The Contracting Powers, other than China, agree:

(1) To respect the sovereignty, the independence, and the territorial and administrative integrity of China;

(2) To provide the fullest and most unembarrassed opportunity to China to develop and maintain for herself an effective and stable government;

(3) To use their influence for the purpose of effectually establishing and maintaining the principle of equal opportunity for the commerce and industry of all nations throughout the territory of China;

(4) To refrain from taking advantage of conditions in China in order to seek special rights or privileges which would



abridge the rights of subjects or citizens of friendly States, and from countenancing action inimical to the security of such States.

#### ARTICLE II.

The Contracting Powers agree not to enter into any treaty, agreement, arrangement, or understanding, either with one another, or, individually or collectively, with any Power or Powers, which would infringe or impair the principles stated in Article I.

#### ARTICLE III.

With a view to applying more effectually the principles of the Open Door or equality of opportunity in China for the trade and industry of all nations, the Contracting Powers, other than China, agree that they will not seek, nor support their respective nationals in seeking

(a) any arrangement which might purport to establish in favor of their interests any general superiority of rights with respect to commercial or economic development in any designated region of China;

(b) any such monopoly or preference as would deprive the nationals of any other Power of the right of undertaking any legitimate trade or industry in China, or of participating with the Chinese Government, or with any local authority, in any category of public enterprise, or which by reason of its scope, duration or geographical extent is calculated to frustrate the practical application of the principle of equal opportunity.

It is understood that the foregoing stipulations of this Article are not to be so construed as to prohibit the acquisition of such properties or rights as may be necessary to the conduct of a particular commercial, industrial, or financial undertaking or to the encouragement of invention and research.

China undertakes to be guided by the principles stated in the foregoing stipulations of this Article in dealing with applications for economic rights and privileges from Govern-



ments and nationals of all foreign countries, whether parties to the present Treaty or not.

#### ARTICLE IV.

The Contracting Powers agree not to support any agreements by their respective nationals with each other designed to create Spheres of Influence or to provide for the enjoyment of mutually exclusive opportunities in designated parts of Chinese territory.

#### ARTICLE V.

China agrees that, throughout the whole of the railways in China, she will not exercise or permit unfair discrimination of any kind. In particular there shall be no discrimination whatever, direct or indirect, in respect of charges or of facilities on the ground of the nationality of passengers or the countries from which or to which they are proceeding, or the origin or ownership of goods or the country from which or to which they are consigned, or the nationality or ownership of the ship or other means of conveying such passengers or goods before or after their transport on the Chinese Railways.

The Contracting Powers, other than China, assume a corresponding obligation in respect of any of the aforesaid railways over which they or their nationals are in a position to exercise any control in virtue of any concession, special agreement or otherwise.

#### ARTICLE VI.

The Contracting Powers, other than China, agree fully to respect China's rights as a neutral in time of war to which China is not a party; and China declares that when she is a neutral she will observe the obligations of neutrality.

#### ARTICLE VII.

The Contracting Powers agree that, whenever a situation arises which in the opinion of any one of them involves the

application of the stipulations of the present Treaty, and renders desirable discussion of such application, there shall be full and frank communication between the Contracting Powers concerned.

#### ARTICLE VIII.

Powers not signatory to the present Treaty, which have Governments recognized by the Signatory Powers and which have treaty relations with China, shall be invited to adhere to the present Treaty. To this end the Government of the United States will make the necessary communications to non-signatory Powers and will inform the Contracting Powers of the replies received. Adherence by any Power shall become effective on receipt of notice thereof by the Government of the United States.

#### ARTICLE IX.

The present Treaty shall be ratified by the Contracting Powers in accordance with their respective constitutional methods and shall take effect on the date of the deposit of all the ratifications, which shall take place at Washington as soon as possible. The Government of the United States will transmit to the other Contracting Powers a certified copy of the *procès-verbal* of the deposit of ratifications.

The present Treaty, of which the French and English texts are both authentic, shall remain deposited in the archives of the Government of the United States, and duly certified copies thereof shall be transmitted by that Government to the other Contracting Powers.

In faith whereof the above-named Plenipotentiaries have signed the present Treaty.

Done at the City of Washington the Sixth day of February One Thousand Nine Hundred and Twenty-Two.

## APPENDIX XII.

Sen. Doc. No. 126, 67th Cong., 2d Sess., p. 903.

### Resolution regarding a Board of Reference for Far Eastern Question.

The representatives of the Powers assembled at the present Conference at Washington, to wit;

The United States of America, Belgium, the British Empire, China, France, Italy, Japan, The Netherlands and Portugal;

Desiring to provide a procedure for dealing with questions that may arise in connection with the execution of the provisions of Article III and V of the Treaty to be signed at Washington on February 6th, 1922, with reference to their general policy designed to stabilize conditions in the Far East, to safeguard the rights and interests of China, and to promote intercourse between China and the other Powers upon the basis of equality of opportunity;

Resolve that there shall be established in China a Board of Reference to which any questions arising in connection with the execution of the aforesaid Articles may be referred for investigation and report.

The Special Conference provided for in Article II of the Treaty to be signed at Washington on February 6th, 1922, with reference to the Chinese Customs Tariff, shall formulate for the approval of the Powers concerned a detailed plan for the constitution of the Board.

Adopted by the Conference on the Limitation of Armament at the Sixth Plenary Session February 4th, 1922.

## APPENDIX XIII.

Sen. Doc. No. 126, 67th Cong., 2d Sess., p. 909.

Resolution regarding Existing Commitments of China or with respect to China.

The Powers represented in this Conference, considering it desirable that there should hereafter be full publicity with respect to all matters affecting the political and other international obligations of China and of the several Powers in relation to China, are agreed as follows:

I. The several Powers other than China will at their earliest convenience file with the Secretariat General of the Conference for transmission to the participating Powers, a list of all treaties, conventions, exchange of notes, or other international agreements which they may have with China, or with any other Power or Powers in relation to China, which they deem to be still in force and upon which they may desire to rely. In each case, citations will be given to any official or other publication in which an authoritative text of the documents may be found. In any case in which the document may not have been published, a copy of the text (in its original language or languages) will be filed with the Secretariat General of the Conference.

Each Treaty or other international agreement of the character described which may be concluded hereafter shall be notified by the Governments concerned within sixty (60) days of its conclusion to the Powers who are signatories of or adherents to this agreement.

II. The several Powers other than China will file with the Secretariat General of the Conference at their earliest con-

venience for transmission to the participating Powers a list, as nearly complete as may be possible, of all those contracts between their nationals, of one part, and the Chinese Government or any of its administrative subdivisions or local authorities, of the other part, which involve any concession, franchise, option or preference with respect to railway construction, mining, forestry, navigation, river conservancy, harbor works, reclamation, electrical communications, or other public works or public services, or for the sale of arms or ammunition, or which involve a lien upon any of the public revenues or properties of the Chinese Government or of any of its administrative subdivisions. There shall be, in the case of each document so listed, either a citation to a published text, or a copy of the text itself.

Each contract of the public character described which may be concluded hereafter shall be notified by the Governments concerned within sixty (60) days after the receipt of information of its conclusion to the Powers who are signatories of or adherents to this agreement.

III. The Chinese Government agrees to notify in the conditions laid down in this agreement every treaty agreement or contract of the character indicated herein which has been or may hereafter be concluded by that Government or by any local authority in China with any foreign Power or the nationals of any foreign Power whether party to this agreement or not, so far as the information is in its possession.

IV. The Governments of Powers having treaty relations with China which are not represented at the present Conference, shall be invited to adhere to this agreement.

The United States Government, as convenor of the Conference, undertakes to communicate this agreement to the Governments of the said Powers, with a view to obtaining their adherence thereto as soon as possible.

Adopted by the Conference on the Limitation of Armament at the Fifth Plenary Session February 1st, 1922.





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